

2010-UNAT-050, Ishak

UNAT Held or UNDT Pronouncements

In judgment No. 2010-UNAT-050, UNAT held that the appeal was time-barred and not receivable since it was not filed within 45 calendar days of receipt of the UNDT judgment. UNAT held that UNDT had correctly concluded that it had no jurisdiction to receive the Appellant's appeal before the JAB. UNAT dismissed the appeal and affirmed the UNDT judgment. In judgment No. 2010-UNAT-050/Corr. 1, UNAT noted that the Appellant was granted an extension of time to file an appeal to 16 February 2010 and he filed his appeal on that date. UNAT rejected the Secretary-General's submission that the appeal was time-barred and not receivable. UNAT, however, maintained the other grounds for the rejection of the appeal. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicant contested the decision to deny him a promotion to the P-5. UNDT found that the Applicant had not requested a further extension of the deadline of 19 December 2008 for filing the full statement of appeal. UNDT, therefore, considered that the appeal was abandoned under Article 10 of the RoP of JAB, and that it had to be removed from the list of appeals pending before JAB. UNDT held it was competent to rule on appeals submitted to JAB only if they were pending as of 1 July 2009, which was not the case in this instance. UNDT found that, as the appeal was inadmissible, the Applicant's presence at the hearing would not have contributed to the settlement of the dispute. UNDT dismissed the application finding that it had been erroneously submitted to a tribunal lacking jurisdiction in the matter.

Legal Principle(s)

UNDT only has jurisdiction to hear pending matters, but not matters that had already been decided by the JAB or had been abandoned while pending a JAB hearing.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ishak

Entity

UNHCR

Case Number(s)

2010-053

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Sep 2010

President Judge

Judge Boyko

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNAT)

Temporal (ratione temporis)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

GA Resolutions

- A/RES/63/253

Staff Rules

- Rule 111.2(a)(i)

UNDT RoP

- Article 19

UNDT Statute

- Article 10.4
- Article 18.3

Related Judgments and Orders

UNDT/2009/042

UNDT/2009/040