

UNDT/2022/001, Arvizu Trevino

UNAT Held or UNDT Pronouncements

In the present case, in the Applicant's request for management evaluation, he explicitly "reserved" the determination of the issue of non-pecuniary damages related to the process before ABCC to the situation where his claim for compensation under Appendix D of the Staff Rules was not remanded to the ABCC. As a matter of fact, the Applicant's Appendix D claim was, however, remanded to the ABCC, and nothing in the case record indicates that the question of non-pecuniary damages was thereafter, as also requested by the Applicant, considered by the MEU. Accordingly, as the Applicant specifically excluded the issue of non-pecuniary damages from his request for management evaluation in the given circumstances, this question is not receivable in the present case before the Dispute Tribunal. As no substantive issues are therefore pending before the Tribunal in the present case, the Tribunal cannot to entertain any of the Applicant's other requests and motions, including the sought referral for accountability under art. 10.8 of the Dispute Tribunal.

Decision Contested or Judgment/Order Appealed

The United Nations Controller's decision of 17 July 2020 "to deny him a compensation claim under Appendix D of the Staff Regulations and Rules"

Legal Principle(s)

The Tribunal notes that for an issue to be receivable pursuant to staff rule 11.2(a), the applicant must first have submitted it for management evaluation unless it concerns "a decision taken pursuant to advice obtained from technical bodies, as determined by the Secretary-General" or "a decision taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff rule 10.2". In line herewith, see also the Appeals Tribunal in, for instance, Aliko 2015-UNAT-540 (para. 38), Gnassou 2018-UNAT-865 (para. 30) and Kollie 2021-UNAT-1138 (para. 75)

Outcome

Dismissed as not receivable

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Arvizu Trevino

Entity

UNJSPF

Case Number(s)

UNDT/NY/2020/42

Tribunal

UNDT

Registry

New York

Date of Judgement

5 Jan 2022

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Applicable Law

UNDT Statute

UNRWA DT Statute

- Article 10.8

Staff Rules

- Rule 11.2(a)