

2023-UNAT-1388, Yassir Ibrahim Ali Haroun

UNAT Held or UNDT Pronouncements

The UNAT held that the appeal against the two interlocutory Orders became moot following the issuance of Judgment No. UNDT/2022/124 and that the UNDT did not err in delivering its Judgment during the pendency of that appeal. The UNAT nevertheless observed that the UNDT erred in law by imposing an unreasonably short period for compliance with Order No. 157 (NBI/2022). Despite this, the UNAT concluded that, as the proceeding was unreceivable, this finding did not assist the Appellant in his case. With regard to Order No. 158 (NBI/2022), the UNAT held that the UNDT rightfully refused to conduct an oral hearing of the case.

The UNAT found that the Appellant could not represent 4000 unidentified former staff members as the right to challenge an administrative decision before the UNDT is an individual right.

Additionally, the UNAT found that the Appellant breached two time limits, as he did not submit a timely request for management evaluation and also filed his application more than five years after his notification of the contested decision. The UNAT held that the UNDT correctly concluded that the time began to run in June 2016 when the Staff Association of which the Appellant was a member received notice of the Administration's refusal to pay its members as demanded by it and that the Appellant should have been aware, at least indirectly, of that decision. The fact that the contested administrative decision was reiterated to the Staff Association in 2021 was deemed immaterial.

The UNAT dismissed the appeal against Orders Nos. 157 and 158 (NBI/2022) as being without jurisdiction and unreceivable, dismissed the appeal on the merits and affirmed Judgment No. UNDT/2022/124.

Decision Contested or Judgment/Order Appealed

The Appellant, a former staff member of the Office of the United Nations-African Union Hybrid Operation in Darfur (UNAMID) appealed against: i) interlocutory Order No. 157 (NBI/2022) requiring him to file an amended application in his substantive proceedings within less than one working day, but which he failed to do; ii) interlocutory Order No. 158 (NBI/2022) in which the UNDT determined, among other things, that the case would proceed without the Appellant's amended application and without an oral hearing; and iii) Judgment No. UNDT/2022/124 in which the UNDT dismissed the Appellant's application contesting what he described as "8 outstanding claims for 4000 former UNAMID national staff members and the claims were refuted by UNAMID management on 28 August 2021" as not receivable *ratione materiae* and *ratione temporis*.

Legal Principle(s)

An interlocutory appeal is only receivable in cases where the UNDT has clearly exceeded its jurisdiction or competence. An appeal against a case management order has no suspending effect. On the contrary, case management orders or directives shall be executable immediately. Case management is a judicial power attributed to a judge, that cannot be delegated or otherwise exercised by a Registry legal officer.

If a party is entitled to an extension of a time limit, the duration of that extension should be sufficient to enable the implementation of the changes for which it was granted.

The right to challenge an administrative decision before the UNDT is an individual right and it cannot be interpreted to allow for representative or class actions. Indeed, there is a danger that some or even many staff

members may be unaware that a proceeding has been initiated on their behalf or may even have wished to oppose this course of action.

The necessary prerequisite step for management evaluation is a timely request for the reconsideration of the administrative decision by the Organization. A request for management evaluation must be sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested. Moreover, no application is receivable if it is filed more than three years after the staff member's receipt of the contested administrative decision.

Outcome

Appeal dismissed on merits; Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Yassir Ibrahim Ali Haroun

Entity

UNAMID

Case Number(s)

2022-1746, 2023-1775

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Nov 2023

President Judge

Judge Colgan

Judge Forbang

Judge Sheha

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

TEST -Rename- Benefits and entitlements-45

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Receivability

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Temporal (ratione temporis)

Management Evaluation

Time limit

Procedure (first instance and UNAT)

Case management

Oral hearings

Suspension of action / interim measures

Mootness

Applicable Law

Staff Rules

- Rule 11.2(a)
- Rule 11.2 (c)

UNAT RoP

- Article 8.6

UNAT Statute

- Article 2.9
- Article 7.5

UNDT RoP

- Article 16.1
- Article 16.2
- Article 17.6
- Article 18.5

UNDT Statute

- Article 2.1
- Article 11.3
- Article 2.4
- Article 3
- Article 8.1
- Article 8.1(c)
- Article 8.1(d)(i)
- Article 2.3
- Article 8.4

Related Judgments and Orders

UNDT/2022/124

2016-UNAT-657

2023-UNAT-1362

2023-UNAT-1354

2020-UNAT-1072