

2023-UNAT-1400, Lanla Kamara-Joyner

UNAT Held or UNDT Pronouncements

The UNAT held that the UNDT did not err in finding that the facts underlying the written reprimand were established. The UNAT agreed that Ms. Kamara-Joyner's advocacy for an individual staff member was outside of her roles and duties in both her capacity as a Conflict Resolution Officer for UNOMS and as President of UNPAD. The UNAT found that Ms. Kamara-Joyner failed to expressly seek approval for the conflict of interest between her two roles and refused to follow instructions on removing the conflict of interest. Accordingly, she was subject to a disciplinary or administrative measure. The UNAT held that she had been provided an opportunity to comment prior to the issuance of the reprimand, and that it was proportionate to the misconduct. The UNAT also agreed with the UNDT that it was reasonable for the Ombudsman not to assign work to Ms. Kamara-Joyner given her continued involvement with UNPAD.

The UNAT also found that the UNDT did not err in determining that her application contesting the non-renewal of her contract was not receivable for failure to file a timely management evaluation. Ms. Kamara-Joyner was required to submit her request for management evaluation by a certain Sunday, but she submitted it the following Monday. The UNAT rejected reliance on the UNAT practice that time limits are extended to the next working day when the last day of the time period is not a working day. The UNAT held that the language of Article 8(3) of the UNDT Statute and of Staff Rule 11.2(c) precluded such an outcome. The UNAT also rejected the argument that *res judicata* prevented the UNDT from revisiting its decision on receivability of her UNDT application in an earlier UNDT Order. As this is a jurisdictional, threshold issue, the principle of *res judicata* cannot apply.

Decision Contested or Judgment/Order Appealed

In Judgment No. UNDT/2022/089, the United Nations Dispute Tribunal dismissed Ms. Kamara-Joyner's application challenging three decisions of the Administration. She contested the issuance of a written reprimand for an alleged conflict of interest between her role as a Conflict Resolution Officer for the Office of the Ombudsman and her position as the President of the United Nations People of African Descent organization. She also challenged the removal of work responsibilities due to this conflict of interest. Lastly, she challenged the non-renewal of her fixed-term appointment. The UNDT found that the reprimand and the removal of work duties were lawful and reasonable, respectively, and the challenge to the non-renewal was not receivable.

Ms. Kamara-Joyner appealed.

Legal Principle(s)

The Secretary-General has discretion to impose a disciplinary or an administrative measure on a staff member who has failed to comply with their obligations under the United Nations Charter, the Staff Regulations and Staff Rules, or relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant.

It will be for the Secretary-General and heads of departments to assess whether a particular act or omission raises a potential conflict of interest situation.

Staff Regulation 1.2(m) requires that the staff member has the obligation to disclose actual or perceived conflicts of interest from outside activities to the Secretary General who then can authorize and approve these outside activities. This cannot occur through tacit or implicit approval.

Under the terms of reference for the Ombudsman's office, staff therein cannot advocate on behalf of an individual party.

Staff Regulation 1.2(c) gives the Secretary-General broad discretionary powers when it comes to organization of work. It is well established that, notwithstanding the width of the discretion conferred by this provision, it is not unfettered and can be challenged on the basis that the decision is arbitrary or taken in violation of mandatory procedures or based on improper motives or bad faith.

A plain and ordinary reading of the language of Article 8(3) of the UNDT Statute is that the prohibition on suspending or waiving deadlines for management evaluation precludes extending a deadline that falls on a holiday or weekend.

A plain-and-ordinary meaning interpretation of the language in Staff Rule 11.2(c) is that the Rule refers to the “sending” of the request and not the Administration “receiving” the request.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Lanla Kamara-Joyner

Entity

UN Secretariat

Case Number(s)

2022-1754

Tribunal

UNAT

Registry

New York

Date of Judgement

7 Dec 2023

President Judge

Judge Sandhu
Judge Forbang
Judge Sheha

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct
Non-disciplinary/administrative measures
Unauthorised outside activities and conflict of interest
Management Evaluation
Time limit

Applicable Law

Secretary-General's bulletins

- ST/SGB/2016/7
- ST/SGB/2016/9

Staff Regulations

- Regulation 1.2(c)
- Regulation 1.2(m)

Staff Rules

- Rule 1.2(q)
- Rule 11.2(c)
- Rule 10.2(b)

UNDT Statute

- Article 8.1(c)
- Article 8.3

Related Judgments and Orders

2010-UNAT-084

2019-UNAT-915

2022-UNAT-1268

2015-UNAT-557

UNDT/2009/051