

UNDT/2024/015, BK

UNAT Held or UNDT Pronouncements

The decision to have the Applicant consent to an Independent Medical Evaluation ("IME") was reasonably taken in the interest of the Organization.

The Tribunal held that there was no unlawful behavior by UNHCR in following and implementing the recommendations arising from the IME. The decision was rational, procedurally correct and appropriate.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to reduce his Standard Assignment Length ("SAL") on medical grounds.

Legal Principle(s)

The UNDT does not have medical competence and, therefore, cannot evaluate the substance of the Independent Medical Evaluation. The UNDT, in line with its statutory role, can only determine whether the procedure taken to refer the Applicant to an IME for medical evaluation was fair and rational in the circumstances.

The UNDT can evaluate the fairness of the procedure by assessing the grounds for imposing the procedure. Thereafter, the notification to the Applicant of the steps to be taken to engage in the process and any right afforded to appeal or review the decision can be evaluated.

It is also an essential element of the procedural propriety that the process of referral to an IME be supported by legal instruments.

The doctrine of clean hands, defined by Black’s Law Dictionary is “the principle that a party cannot seek equitable relief or assert an equitable defense if that party has violated an equitable principle, such as good faith.

In an application before it, the Tribunal will only consider the validity of the Administration’s exercise of discretion in administrative matters and determine if the decision is legal, rational, procedurally correct and appropriate.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

BK

Entity

UNHCR

Case Number(s)

UNDT/2024/015

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

22 Mar 2024

Duty Judge

Judge Belle

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Applicable Law

Administrative Instructions

- Medical Clearances and Fitness to Work (UNHCR/AI/2022/03)
- ST/AI/2019/1

Staff Rules

- Rule 4.19
- Rule 6.2(b)(ii)

Related Judgments and Orders

UNDT/2012/050

2016-UNAT-660

2016-UNAT-667