

2024-UNAT-1466, Fouad Moustafa El-Anani

UNAT Held or UNDT Pronouncements

The UNAT rejected the new arguments and evidence submitted to the Appeals Tribunal for the first time that were aimed to show that Mr. El-Anani had not read the attachment of the e-mail that communicated the disciplinary sanction.

The UNAT confirmed that, the two Microsoft Outlook notification records acknowledged by Mr. El-Anani indicated that the contested decision had been delivered to and read by him on 28 March 2023 and that he was therefore required to file his application with the UNDT by no later than 26 June 2023. Since Mr. Al-Anani did not file the application until 28 June 2023, two days past the 90-day deadline, his application was rendered time-barred.

The UNAT dismissed the appeal and affirmed the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

A former staff member contested the imposition on him of the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity.

In Judgment No. UNDT/2023/074, the UNDT found Mr. El-Anani's application not receivable *ratione temporis*, as the application had not been submitted timeously.

Mr. El-Anani appealed.

Legal Principle(s)

New arguments and evidence submitted to the Appeals Tribunal for the first time without filing a motion providing exceptional circumstances in advance are not admissible.

The date a decision is received constitutes an objective standard, regardless of whether the recipient knows it, reads it, or opens the attachment with it.

Unspecified international law or domestic law is not the applicable legal framework for applications before the UNDT.

Notifications of administrative decisions are valid even if communicated during a staff member's annual leave.

E-mails sent outside working hours to staff members are considered received on the day sent.

The right to receive legal assistance does not guarantee the right to be represented by OSLA.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Fouad Moustafa El-Anani

Entity

UNSCOL

Case Number(s)

2023-1856

Tribunal

UNAT

Registry

New York

Date of Judgement

5 Aug 2024

President Judge

Judge Savage

Judge Gao

Judge Forbang

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Temporal (ratione temporis)

Legal representation

Oral hearings

Jurisdiction / receivability (UNDT or first instance)

Legal services (OSLA or other) and self-representation

Procedure (first instance and UNAT)

Applicable Law

Administrative Instructions

- ST/AI/2017/1

Staff Rules

- Rule 11.4

UNDT Statute

- Article 8.1(d)(ii)
- Article 8.1(d)(i)(a)

UNDT RoP

- Article 7.1

UNAT Statute

- Article 8.3
- Article 2.5

UNAT RoP

- Article 18.1
- Article 10

Related Judgments and Orders

2017-UNAT-712

2023-UNAT-1364

2017-UNAT-790

2022-UNAT-1301

2017-UNAT-773

2016-UNAT-693

2021-UNAT-1174

UNDT/2023/074