

2024-UNAT-1457, Alejandro Francisco Lago

UNAT Held or UNDT Pronouncements

The UNAT held that, Mr. Lago's reliance on additional evidence without filing a motion, was inadmissible.

The UNAT confirmed that, there was no evidence that a specific request for an occupational health evaluation, made by Mr. Lago, in an individual capacity to an appropriate official, was refused or ignored. Additionally, Mr. Lago's requests mirrored his persistent attempts to challenge a perceived wrong, which on its own cannot be perceived as an implied administrative decision.

The UNAT concluded that, in the absence of any evidence of a clear request capable of giving rise to an identifiable implied administrative decision, the UNDT had appropriately dismissed the case.

The UNAT dismissed the appeal and affirmed the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

A former staff member contested the implied decision of the Administration not to conduct an occupational health evaluation after the reported and objective exposure of the workplace to toxic contaminants.

In Judgment No. UNDT/2023/052, the UNDT found Mr. Lago's application not receivable *ratione materiae* for want of any identifiable administrative decision.

Mr. Lago appealed.

Legal Principle(s)

An appeal is not the appropriate occasion to reply to a dispute in the first instance, or to introduce new elements for consideration that were not put forward at the UNDT level.

A key characteristic of an appealable administrative decision is that there must be an individual application of the contested decision and it must produce direct legal consequences affecting a staff member's terms of employment.

The absence of a response to a claim or complaint can in certain circumstances constitute an appealable administrative decision where it has direct legal consequences. However, the existence of a continuous wrong cannot on its own be identified as an implied administrative decision.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Alejandro Francisco Lago

Entity

UNDP

Case Number(s)

2023-1840

Tribunal

UNAT
Registry
New York
Date of Judgement
25 Jul 2024
President Judge
Judge Forbang
Judge Sandhu
Judge Savage
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Implied administrative decision
Temporal (ratione temporis)
Admissibility of evidence
Administrative decision
Jurisdiction / receivability (UNDT or first instance)
Procedure (first instance and UNAT)
Applicable Law
UNAT RoP

- Article 10.1

UNAT Statute

- Article 2.5
- Article 2.1(a)

UNDT Statute

Related Judgments and Orders

2010-UNAT-049
2016-UNAT-699
2015-UNAT-541
2013-UNAT-304
2014-UNAT-460
2014-UNAT-457
2015-UNAT-555
2016-UNAT-657
2019-UNAT-969
2018-UNAT-821
2010-UNAT-030
2017-UNAT-716
2016-UNAT-644
2020-UNAT-1004
2019-UNAT-967
UNDT/2023/052