

UNDT/2024/074, Ahouissou

UNAT Held or UNDT Pronouncements

The Tribunal held:

- a. Any postponement in issuing the Applicant's separation information to the Pension Fund could be justified only to a reasonable timeframe; the indefinite protraction of an investigation would violate a staff member's contractual rights to have his final entitlement paid and also the right to a timely definition of any eventual disciplinary process against him/her.
- b. The prolonged duration of the investigation did not warrant the withholding of the Applicant's final payment and pension for such a long time, considering the ordinary function for the said entitlements in providing a living.
- c. The withholding of the pension release form and final entitlements was unlawful at the time of the Applicant's separation because this was not supported by any assessment of his debt and remained unlawful at the time because the Applicant had not even been charged of any specific accusation.
- d. UNDP's decision to defer the issuance of the Applicant's final entitlements and Separation Notification Form to the UNJSPF was unlawful.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Administration's decision to delay the issuance of his personnel payroll clearance action form to the United Nations Joint Staff Pension Fund ("UNJSPF"), which resulted in holding his entitlements after separation from the Organization on the basis that he was under investigation.

Legal Principle(s)

When judging the validity of the exercise of discretion in administrative matters, the UNDT determines if the decision is legal, reasonable, and procedurally fair.

it is not the UNDT's role to consider the correctness of the choice made by the Administrator amongst the various courses of action open to him. Nor is it the role of the Tribunal to substitute its own decision for that of the Administrator.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Ahouissou

Entity

UNDP

Case Number(s)

UNDT/NBI/2024/014

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

8 Oct 2024

Duty Judge

Judge Buffa

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Applicable Law

Laws of other entities (rules, regulations etc.)

- UNDP Legal Framework

Staff Rules

- Rule 10.1(b)
- Rule 10.2(b)(i-iii)
- Rule 3.16

Related Judgments and Orders

UNDT/2023/097

UNDT/2023/096

UNDT/2021/125

UNDT/2015/059

UNDT/2023/103