

# 2024-UNAT-1508, Adolphe Irambona

## UNAT Held or UNDT Pronouncements

The UNAT noted that the Administration had initiated a preliminary investigation into the staff member's conduct with regard to the ostensible theft of cash from the office safe, reached agreements with him regarding repayment, and then sought initiation of criminal proceedings by filing a criminal complaint and delivering him to the local police. The UNAT found that because the underlying facts of the case involved his conduct as a United Nations staff member towards his employer, the UNDT should have been competent to review his application on the merits, had it been timely filed.

The UNAT was of the view that the UNDT had been correct in finding that the staff member had failed to request management evaluation in a timely manner and that his application was not receivable.

The UNAT held that the staff member had known of the Administration's actions with respect to the criminal proceedings when he affirmed that, if he failed to return the lost funds, police action should be taken against him and, after failing to make full repayment, he was taken by United Nations staff to the local authorities, and imprisoned. The UNAT found that in light of this objective reality, the later formality of viewing the criminal complaint had not extended or re-started the time for him to request management evaluation.

The UNAT held that the retention, by the Organization, of the funds he had deposited had not been a continuous decision but merely a carrying out of the initial decision to demand and accept repayment and it had not extended the deadline to request management evaluation.

The UNAT dismissed the appeal and affirmed the UNDT Judgment.

## Decision Contested or Judgment/Order Appealed

A former staff member contested several decisions: (a) an implied decision to refer the allegation of theft, of which he was accused, to Burundian national authorities; (b) an implied decision to waive his immunity in relation to the theft case; and (c) a decision to retain monies paid by him to the United Nations in connection with the theft allegation.

In Judgment No. UNDT/2023/114, the UNDT dismissed the application as not receivable.

The staff member appealed.

## Legal Principle(s)

The Appeals Tribunal has consistently held that the date of an explicit and an implied administrative decision is based on objective elements that both parties can accurately determine.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Adolphe Irambona

Entity

Other peacekeeping mission

Case Number(s)

2023-1881

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Dec 2024

President Judge

Judge Ziadé

Judge Sandhu

Judge Gao

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Theft and misappropriation

Disciplinary matters / misconduct

Applicable Law

Agreements, conventions, treaties (etc.)

Related Judgments and Orders

UNDT/2023/114