

# **2024-UNAT-1504, AAX**

## **UNAT Held or UNDT Pronouncements**

The UNAT held that the staff member's application was not receivable *ratione materiae*. It further found that the e-mail identified as the contested decision was a general response from the Human Resources Partner to the staff member's general inquiry regarding SEG, which did not address his personal situation. As such, it did not constitute an individual or final administrative decision affecting his terms of appointment under Staff Rule 11.2(a).

The UNAT dismissed the appeal and affirmed Judgment No. UNDT/2023/107, albeit for different reasons, with Judge Colgan dissenting.

## **Decision Contested or Judgment/Order Appealed**

A staff member of the United Nations Office on Drug Control (UNODC), United Nations Office at Vienna (UNOV) contested the decision of the Administration not to allow the education grant (EG) and special education grant (SEG) to be paid in combination.

In its Judgment No. UNDT/2023/107, the UNDT concluded that the Administration appropriately determined that the EG and SEG schemes were subject to the same single maximum limit and dismissed the staff member's application.

Staff member appealed.

## **Legal Principle(s)**

The UNAT has the authority to review both the UNDT's jurisdiction and its own, whether or not the issue has been raised by the parties.

An administrative decision is a unilateral decision of an administrative nature taken by the Administration and involving the exercise of a power or the performance of a function in terms of a statutory instrument, which adversely affects the rights of another and produces direct legal consequences.

Determining what constitutes a decision of an administrative nature must be done on a case-by-case basis and will depend on the circumstances. The nature of the decision, the legal framework under which the decision was made, and the consequences of the decision are key determinants of whether the decision in question is an administrative decision. What matters is not so much the functionary who takes the decision as the nature of the function performed or the power exercised. The question is whether the task itself is administrative or not.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

AAX

## Entity

UNOV/UNODC

## Case Number(s)

2023-1871

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

20 Dec 2024

## President Judge

Judge Gao

Judge Colgan

Judge Ziadé

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Definition

Benefits and entitlements

Procedure (first instance and UNAT)

Procedure (first instance and UNAT)

Administrative decision

## Applicable Law

Staff Rules

- Rule 11.2(a)

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

## Related Judgments and Orders

UNDT/2023/107

2024-UNAT-1409

2011-UNAT-182

2010-UNAT-058

2014-UNAT-481

2021-UNAT-1102

2018-UNAT-840

2019-UNAT-967