

# **2024-UNAT-1495-Corr.1, ABA**

## **UNAT Held or UNDT Pronouncements**

The UNAT considered whether the interlocutory appeal was receivable because ABA had not been given an opportunity to be heard on the issue of the protective measures for V01 at the proposed hearing at the time the UNDT issued the first Order. The UNAT held that this was not grounds to grant the interlocutory appeal, because ABA's arguments were heard by the UNDT when he filed his motion for reconsideration.

The UNAT held that the UNDT did not exceed its competence or jurisdiction when it issued these case management orders. The UNAT was also not persuaded by ABA's argument that the violation of his due process rights was irreparable if this issue was not resolved now. The UNAT held that the UNDT's refusal to permit ABA to participate in the hearing while V01 was testifying could not be considered irremediable, because the UNAT routinely reviews UNDT judgments that contain claims of procedural unfairness.

The UNAT held that the interlocutory appeal was not receivable.

## **Decision Contested or Judgment/OrderAppealed**

In Order No. 54 (GVA/2024), the UNDT approved several measures to protect the anonymity and well-being of the victim (V01) at a planned hearing on a staff member's (ABA's) challenge to a disciplinary measure for alleged sexual harassment. In Order No. 56 (GVA/2024), the UNDT denied the staff member's motion for reconsideration.

ABA subsequently filed an interlocutory appeal with the UNAT of portions of both Orders, contesting the protective measures, which would exclude his presence from the hearing when V01 was testifying.

## Legal Principle(s)

Most interlocutory decisions will not be receivable, for instance, decisions on matters of evidence, procedure and trial conduct.

An appealable interlocutory order is rare and exceptional.

An interlocutory appeal is receivable in cases where the UNDT has clearly exceeded its jurisdiction or competence.

Where an error by the UNDT is effectively irremediable by an appeal of a final UNDT judgment and it would be manifestly unreasonable for the UNDT order to remain in effect, such interlocutory appeals of orders may be receivable.

## Outcome

UNAMA

## Outcome Extra Text

Appeal dismissed on receivability

## Full judgment

[Full judgment](#)

## Applicants/Appellants

ABA

## Entity

UNAMA

## Case Number(s)

2024-1924

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

5 Dec 2024

## President Judge

Judge Gao

Judge Forbang

Judge Ziadé

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Receivability

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

## Applicable Law

UNDT RoP

- Article 19.1

## Related Judgments and Orders

2022-UNAT-1282

2023-UNAT-1362

2010-UNAT-062

2010-UNAT-005

2010-UNAT-032

2011-UNAT-108

2013-UNAT-300

2024-UNAT-1419