

002 (NBI/2024), Francis Fultang

UNAT Held or UNDT Pronouncements

1. The Tribunal noted that the Applicant had previously raised the same issue before both the Dispute Tribunal (Fultang UNDT/2022/102) and the Appeals Tribunal (Fultang UNAT-2023-1403). The Dispute Tribunal had found the documents in question admissible. The Appeals Tribunal affirmed this finding. 2. The Tribunal, therefore, held that since the issue had been fully litigated by the parties previously, it was subject to the doctrine of res judicata. Thus, the subject documents were deemed admissible in the proceedings. 3. The Tribunal further concluded that even if the issue had not previously been adjudicated, the documents would still be deemed non-privileged and admissible because no privilege attaches to communications with MEU. The MEU is part of the Administration and the management evaluation process is an administrative review of administrative decisions. As such it is not akin to a mediation or settlement process to which some privileges attach. 4. Accordingly, the Tribunal decided that the receipts in question were admissible and the Applicant's objection to those receipts was overruled.

Decision Contested or Judgment/Order Appealed

The Applicant contested the admissibility of receipts produced in the course of discussions before the Management Evaluation Unit (MEU).

Legal Principle(s)

1. Pursuant to the settled jurisprudence, a matter that has been fully litigated by the parties previously is subject to the doctrine of res judicata. 2. No privilege attaches to communications with the Management Evaluation Unit.

Outcome

Other motion denied

Full order

[Full order](#)

Individual Party

Francis Fultang

Entity

UNISFA

Case Number(s)

UNDT/NBI/2023/010

Tribunal

UNDT

Registry

Nairobi

Date of Order

11 Jan 2024

Duty Judge

Judge Wallace

Language of Order

English

Appeal Status

Appealed

Issuance Type

Order

Categories/Subcategories

Other

Applicable Law

UNDT RoP

- Article 18.1