

2025-UNAT-1527, BK

UNAT Held or UNDT Pronouncements

The UNAT noted that the staff member had a medical condition requiring attention which impacted his ability to return to work, and he had consented to the Independent Medical Examination and had not challenged those records before the UNDT nor on appeal.

The UNAT held that even if ST/AI/2019/1 were applicable to UNHCR staff members or taken as a model of just practice, it would not have rendered the Independent Medical Examination improper.

The UNAT found no basis to overturn the UNDT's determination that there had been no evidence of bias or conflict of interest in either the medical examination request, the selection of the physician to perform the examination or the conduct of the examination. The UNAT observed that the argument of certain statements made by the physician during the medical examination had not been presented to the UNDT and would not be considered for the first time on appeal.

The UNAT noted that the staff member had pointed to no evidence in the record, nor argued, that the reduction of his Standard Assignment Length based on the medical report had itself been irrational, arbitrary, or disproportionate.

The UNAT found that the doctrine of "unclean hands" was inapplicable to the present case.

The UNAT dismissed the appeal and affirmed the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

A staff member contested a decision to reduce, with immediate effect, his Standard Assignment Length on medical grounds.

In Judgment No. UNDT/2024/015, the UNDT dismissed the application on the merits.

The staff member appealed.

Legal Principle(s)

The Appeals Tribunal does not sit as a trier of fact but instead sits in review of the proceedings of the first instance Tribunal. Accordingly, our function is to determine whether the UNDT made errors of law or fact or in procedure, or exceeded (or failed to exercise) its jurisdiction.

Reflecting the United Nations two-tier formal system of internal administration of justice, a party seeking review of an UNDT decision must do more than simply reargue their case; rather, they must demonstrate error in the impugned judgment.

The Staff Rules make clear that a staff member may be required to medically demonstrate, including through an independent medical examination, that they are medically able to perform their functions.

ST/AI/2019/1 is not applicable to UNHCR, which has not subscribed to it.

A Standard Assignment Length is a “standard”, which may be adjusted based on individual circumstances. UNHCR may adjust a staff member’s Standard Assignment Length based on his or her medical condition or a “wellbeing risk”.

The doctrine of “unclean hands” serves to bar a claimant from relief, which may otherwise be available, when they have contributed to the circumstances they challenge—a claimant will not be allowed to profit from his own wrong.

Outcome

Appeal dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

BK

Entity

UNHCR

Case Number(s)

2024-1922

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Apr 2025

President Judge

Judge Ziadé
Judge Forbang
Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discretionary authority

Medical evidence

Evidence

Applicable Law

Administrative Instructions

- ST/AI/2019/1

Staff Regulations

- Regulation 1.2(c)

Staff Rules

- Rule 4.19
- Rule 6.2(g)

UNAT Statute

- Article 2.1

UNHCR Administrative Instruction

- UNHCR AI/2022/03
- UNHCR/AI/2017/7/Rev.2

Related Judgments and Orders

UNDT/2024/015

2017-UNAT-737

2015-UNAT-601

2017-UNAT-711

2022-UNAT-1301

2019-UNAT-934