

548 (2024), Mohamed Ben Madi

UNAT Held or UNDT Pronouncements

The UNAT held that the motion was not receivable because the impugned Order was not appealable and the UNDT had acted within its competence and jurisdiction in finding that the non-renewal decision had been prima facie lawful. The UNAT found that the staff member's request for reinstatement to his previous position could be considered as "temporary relief to prevent irreparable harm" but it was instead an interlocutory appeal of the denial of the suspension of action which was not permitted. The UNAT also noted that granting the staff member's request would not maintain consistency with the UNDT Judgment, which had not yet been rendered. The UNAT denied the staff member's motion for interim measures.

Decision Contested or Judgment/Order Appealed

The UNDT issued Order No. 145 (NY/2023) in which it denied the staff member's application for suspension of action, finding that the contested decision not to renew his fixed-term appointment was prima facie lawful. The staff member filed a motion for interim measures, requesting suspension of the non-renewal decision and his reinstatement to his previous position until his appeal was decided.

Legal Principle(s)

An appeal of the Dispute Tribunal's decisions on applications under Articles 2(2) and 10(2) of the UNDT Statute can only be receivable if the Dispute Tribunal, in the course of making the determination, has clearly exceeded its jurisdiction. An interim measure of relief is subject to very strict requirements; such relief is available to protect a litigant from the likelihood of irreparable harm, who the Dispute Tribunal believes is likely to succeed at trial or the Appeals Tribunal believes is likely to succeed on appeal. Article 9(4) requires in effect, that any interim order will maintain the status quo established by the UNDT Judgment.

Outcome

Interim measure denied

Full order

[Full order](#)

Individual Party

Mohamed Ben Madi

Entity

UNFPA

Case Number(s)

2023-1883

Tribunal

UNAT

Registry

New York

Date of Order

11 Jan 2024

President Judge

Judge Gao

Language of Order

English

Appeal Status

Appealed

Issuance Type

Order

Categories/Subcategories

Interim measures

Applicable Law

UNAT Statute

- Article 9.4

UNDT Statute

- Article 10.2
- Article 2.2

Related Judgments and Orders

2020-UNAT-979