

# **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/OrderAppealed**

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