

583 (2024), AAZ

UNAT Held or UNDT Pronouncements

The UNAT found that the written witness statement sought to be submitted constituted new and additional evidence on appeal. The UNAT found that it was apparent that the staff member had known of the evidence at the Dispute Tribunal but, as he noted in his motion and appeal brief, had relied on other grounds which he believed were sufficient to substantiate his claims without risking exposing the witness. The UNAT held that this rendered his request to submit additional evidence on appeal inadmissible. The UNAT denied the motion for leave to submit a confidential witness statement.

Decision Contested or Judgment/Order Appealed

The UNDT issued Judgment No. UNDT/2023/112 in which it dismissed the staff member's application contesting the decision not to select him for a post. The staff member appealed. The staff member filed a motion requesting leave to submit a confidential witness statement.

Legal Principle(s)

Article 2(5) of the UNAT Statute sets out three prerequisites a party must establish for the admission of additional evidence on appeal, namely: (1) exceptional circumstances; (2) that it will be in the interest of justice and the efficient and expeditious resolution of the proceedings to receive the additional evidence; and (3) that the evidence was unknown to either party and could not have been presented at the level of the Dispute Tribunal. The Appeals Tribunal will not admit evidence which was known to the party and could have, with due diligence, been presented to the UNDT. The UNDT is not a dress rehearsal.

Outcome

Other motion denied

Full order

[Full order](#)

Individual Party

AAZ

Entity

OHCHR

Case Number(s)

2023-1878 (Walsby, Benjamin)

Tribunal

UNAT

Registry

New York

Date of Order

17 Oct 2024

President Judge

Judge Gao

Language of Order

English

Appeal Status

Appealed

Issuance Type

Order

Categories/Subcategories

Additional evidence

Applicable Law

UNAT Statute

- Article 2.5

Related Judgments and Orders

2015-UNAT-580

UNDT/2023/112