

2025-UNAT-1549, Aileen Baraza

UNAT Held or UNDT Pronouncements

The UNAT held that the UNDT erred in concluding that the staff member's application was not receivable. It found that the staff member did, in fact, challenge an administrative decision which she claimed was in non-compliance with her terms of employment. Consequently, the UNDT had jurisdiction to decide whether or not to order the conduct of an investigation or take other courses of action concerning the staff member's allegations and complaints. The UNAT concluded that, by instead finding the staff member's application not receivable, the UNDT acted in contravention of Section 5.6 of Secretary-General's Bulletin ST/SGB/2019/8 (Addressing discrimination, harassment, including sexual harassment, and abuse of authority), which entitles the staff member, as an affected individual, to request judicial review of the contested decision.

The UNAT further held that the UNDT exceeded its jurisdiction by proceeding to assess the merits of the case after having determined that the staff member's application was not receivable *ratione materiae*.

The UNAT granted the appeal, reversed Judgment No. UNDT/2024/026 and remanded the case to the Dispute Tribunal for consideration by a different Judge.

Decision Contested or Judgment/Order Appealed

A staff member of the United Nations Environment Programme (UNEP) contested the decision of the Administration to close her complaint filed with the Office of Internal Oversight Services (OIOS), in which she alleged harassment and abuse of authority by her Second Reporting Officer (SRO).

In its Judgment No. UNDT/2024/026, the UNDT dismissed the staff member's application as not receivable *ratione materiae*, determining that the decision she challenged did not have a direct or adverse effect on her. Nevertheless, the UNDT considered the merits of her application and concluded that the Administration had properly exercised its discretion in assessing whether an investigation was necessary.

The staff member appealed.

Legal Principle(s)

When a staff member files a complaint alleging administrative violations of law, the Administration has the discretion to decide whether to initiate an investigation. However, this discretion does not mean that the administrative decision to undertake, or not to undertake, an investigation cannot be subject to judicial review. Whether or not the UNDT may review such a decision depends on whether it falls within its jurisdiction pursuant to Article 2(1) of the UNDT Statute.

Specifically, when a complaint raises issues governed by ST/SGB/2019/8, the staff member is entitled to certain procedural guarantees. If dissatisfied with the outcome of the matter, the staff member may seek judicial review of the administrative decision. The UNDT has jurisdiction to examine the administrative action (or omission) following a request for investigation and to determine whether it was conducted in accordance with the applicable legal framework. The UNDT can also determine the legality of the investigation process.

The UNDT would exceed its competence if it were it to rule on the merits of an application that was found to be non-receivable.

Outcome

Appeal granted

Case remanded

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Aileen Baraza

Entity

UNEP

Case Number(s)

2024-1937

Tribunal

UNAT

Registry

New York

Date of Judgement

15 Jul 2025

President Judge

Gao

Judge Savage

Judge Forbang

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Definition

Investigation

Subject matter (ratione materiae)

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2019/8

UNDT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2024/026

2010-UNAT-100

2010-UNAT-099

2010-UNAT-030

2022-UNAT-1245

2023-UNAT-1313

2013-UNAT-306

2016-UNAT-657