



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Auda
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Rosalyn Chapman, Presiding Judge Inés Weinberg de Roca Judge Richard Lussick
Case No.:	2016-882
Date:	30 June 2016
Registrar:	Weicheng Lin

JUDGE ROSALYN CHAPMAN , PRESIDING .

1. The Appeals Tribunal has before it an appeal of Order No. 313 (NY/2015) issued by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York on 29 December 2015, in the case of *Auda v. Secretary-General of the United Nations*. Mr. Hesham A. Auda filed his appeal on 7 January 2016 and, on 8 February 2016, the Secretary-General filed his answer.

Facts and Procedure

2. Mr. Auda was a Principal Officer at the D-1 level within the Department for General Assembly and Conference Management (DGACM) in October 2015. On 2 October 2015, the Assistant Secretary-General of DGACM verbally advised Mr. Auda that his fixed-term appointment would not be renewed when it expired on 31 December 2015. On 6 October 2015, the Under-Secretary-General of DGACM also verbally advised Mr. Auda that his appointment would not be renewed.

3. On 12 November 2015, Mr. Auda received a written memorandum dated 6 November 2015, advising him that his appointment would not be renewed when it expired on 31 December 2015.

4. On 2 December 2015, Mr. Auda requested management evaluation of the decision “not to renew [his] fixed term appointment on 31 December 2015”, which was communicated to him on 12 November 2015.

5. On 3 December 2015, Mr. Auda filed an application for suspension of action pending management evaluation, which the Dispute Tribunal granted in Order No. 301 (NY/2015) on 8 December 2015.

6. On 17 December 2015, the Management Evaluation Unit (MEU) responded to Mr. Auda’s request for management evaluation and advised him that his request was untimely and not receivable as it was not filed within sixty days of 2 October 2015.

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25. Failing to exercise jurisdiction or erring on a question of law is not a ground for an appeal of an interlocutory order. Any fair reading of the claims on appeal clearly demonstrates that Mr. Auda is really complaining that the UNDT failed to exercise its jurisdiction — and issue an order granting his application for suspension of action—based on an error of law, i.e., that a case contesting separation from service following non-renewal of a fixed-term appointment is a case regarding appointment within the meaning of Article 10(2) of the UNDT Statute. It would torture the jurisprudence of the Appeals Tribunal to hold that the appeal raises the ground that the UNDT exceeded its jurisdiction or competence.

26. In *Siri*,⁷ we recently had the opportunity to reiterate the general principles governing our jurisdiction over appeals of interlocutory orders. We again opined that, under Article 2(1) of our Statute, “only final judgments of the UNDT are appealable”.

27. We noted, however, that “there may be exceptions to the general rule” prohibiting appeals of interlocutory orders “where the UNDT has clearly exceeded its jurisdiction or competence”.⁸ As determined above, an order denying an appl

Tribunal does not have jurisdiction to suspend the contested decision pending determination of the case on its merits.

29. As the UNDT noted, Mr. Auda separated from

Original and Authoritative Version: English

Dated this 30th day of June 2016 in New York, United States.

(Signed)

Judge Chapman, Presiding

(Signed)

Judge Weinberg de Roca

(Signed)

Judge Lussick

Entered in the Register on this 24th day of August 2016 in New York, United States.

(Signed)

Weicheng Lin, Registrar