
Case No.: UNDT/GVA/2010/015
(UNAT 1588)
Judgment No.:

Introduction

1. The applicant seeks the rescission of the decision of 30 November 2007 whereby the Secretary-General rejected his appeal against the

16. On 13 January 2004, the Under-Secretary-General, Department of Management, transmitted to the applicant a copy of the JAB report on his request for suspension of action and advised him of the Secretary-General's decision to reject the request.
17. On 9 April 2004, the applicant filed an appeal against the Executive Director's statement with JAB. In its report of 17 September 2007, JAB found the appeal irreceivable.
18. On 30 November 2007, the Under-Secretary-General, Department of Management, transmitted the JAB report to the applicant and advised him of the Secretary-General's decision to reject his appeal.
19. On 3 March 2008, the applicant filed an application before the former United Nations Administrative Tribunal (UNAT).
20. Pursuant to General Assembly resolution 63/253, the application was

- f. There was a reprehensible delay of three years in submitting the JAB report to the Secretary-General and of almost three years between the last meeting of JAB and the adoption of that body's report. JAB held its last executive meeting on 10 November 2004 and the report was issued on 17 September 2007;
 - g. The procedure followed by JAB was improper;
 - h. He does not seek punishment of United Nations officials or monetary gain.
22. The respondent's principal contentions are:
- a. The application is irreceivable because the Executive Director's statement is not an administrative decision affecting the applicant's terms of appointment;
 - b. As the Executive Director, UNODC, does not have authority to take decisions regarding the appointment of staff throughout the United Nations system, his statement is not an administrative decision capable of affecting the applicant's terms of appointment;
 - c. The applicant cannot be identified from the contested statement, which cannot therefore have had legal consequences for his situation;
 - d. JAB took too long to submit its opinion, but that was attributable to staffing problems in Vienna. However, the delay caused no injury to the applicant, as he is not claiming compensation;
 - e. The procedure followed by JAB was not improper;
 - f. UNODC did not deny the applicant's counsel access to his official status file;
 - g. The OIOS report cleared UNODC of corruption charges.

stated opinion which, even if the word ‘decision’ was used, had no direct legal consequence for the applicant because when, on 26 November 2003, the Executive Director, UNODC, made the contested statement, the applicant had already been informed, on 29 October 2003, that his contract would not be renewed. The contested decision cannot, therefore, be considered a decision not to renew his contract. Having no legal consequence for the applicant’s terms of appointment, it is unappealable. The application must therefore be rejected in so far as it seeks the statement’s withdrawal.

27. While the applicant requests the Tribunal to order the Secretary-General to make him an apology, the Tribunal has no authority under its Statute to issue such orders, although it does note the inappropriateness of the statement by the Executive Director, who publicly stigmatized two staff members without there having been disciplinary proceedings against them.

Decision

28. In view of the foregoing, the Tribunal DECIDES:

The application is rejected.

(signed)

Judge Jean-François Cousin

Dated this 24th day of June 2010

Entered in the Register on this 24th day of June 2010

(signed)

Víctor Rodríguez, Registrar, UNDT, Geneva