



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2023-UNAT-1379

**Leopold Camille Yodjeu Ntemde
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

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| Before: | Judge Gao Xiaoli, Presiding Judge Kanwaldeep Sandhu Judge Abdelmohsen Sheha |
| Case Nos.: | 2022-1727, 2022-1731 & 2023-1829 |
| Date of Decision: | 27 October 2023 |
| Date of Publication: | 8 November 2023 |
| Registrar: | Juliet E. Johnson |

Counsel for Appellant: Self-represented

Counsel for Respondent: Patricia C. Aragonés

JUDGE GAO XIAOLI, PRESIDING.

1. Mr. Yodjeu Ntemde Leopold Camille (Mr. Ntemde) comes before the United Nations Appeals Tribunal (Appeals Tribunal or UNAT) to challenge an order and two judgments by the United Nations Dispute Tribunal (UNDT).

2. First, he sought to become a staff member of the Organization but was unable to identify an administrative decision to contest. By Order No. 074 (NY/2022) on case management, the New York seat of the UNDT (UNDT/NY) requested that Mr. Ntemde provide information on the administrative decision he intended to contest and on his employment status as a United Nations staff member (impugned Order).¹ After he failed to do so, by Judgment No. UNDT/2022/078 in the same case, the UNDT/NY dismissed his application as not receivable (impugned Judgment No. UNDT/2022/078).²

3. Subsequently, with reference to a decision to proceed with the recruitment for the position of consultant, Institute for Economic Development and Planning (IDEP), a subsidiary body of the United Nations Economic Commission for Africa (ECA), without him (non-appointment decision), Mr. Ntemde sought to be recognized as a former staff member of ECA. He also sought to be recognized as a current staff member of the Department of Operational Support (DOS) based on a decision to select him for the position of Administrative Assistant, G-5, DOS, United Nations Secretariat, (selection decision). By Judgment No. UNDT/2023/073, the Nairobi seat of the UNDT (UNDT/Nairobi) dismissed his application as not receivable (impugned Judgment No. UNDT/2023/073).³

4. For the reasons set out below, the Appeals Tribunal dismisses the appeals.

Facts and Procedure⁴

5. On 5 January 2021, Mr. Ntemde was selected as a consultant at IDEP, but was asked to confirm his availability and to submit a letter of reference, a medical certificate, and a copy of his

¹ *Yodjeu Ntemde v. Secretary-General of the United Nations*, UNDT/NY Case No. UNDT/NY/2022/040, Order dated 8 August 2022.

² *Yodjeu Ntemde v. Secretary-General of the United Nations*, UNDT/NY Judgment dated 7 September 2022.

³ *Yodjeu Ntemde (The Son of God; The Holy Grail; The King of this World) v. Secretary-General of the United Nations*, UNDT/Nairobi Judgment dated 20 July 2023.

⁴ Summarized from impugned Judgment No. UNDT/2023/073 and other documents as relevant to the appeal.

passport and academic credentials as requirements for subsequent employment.⁵ He did not do so. On 10 March 2021, Mr. Ntemde sent an e-mail to IDEP, indicating that he had not been able to take up the offer because he had been subjected to detention in the United States of America but that he was now ready to join IDEP since he had been released from prison.

6. On 20 March 2021, he sent a reminder to IDEP, seeking information on the status of his selection to the consultancy.⁶

7. In reply, on 22 March 2021, IDEP informed Mr. Ntemde of the non-appointment decision, stating:⁷

I hereby inform you that we had to proceed with the recruitment of another consultant. Therefore, and whilst thanking you for all the updates provided in your messages, the team wishes you all the success moving forward.

8. Accordingly, he never took up that position of consultant with IDEP.⁸

9. On 8 October 2021, DOS informed Mr. Ntemde of the selection decision.⁹ Mr. Ntemde confirmed his interest in the position of Administrative Assistant. However, appointment to this post was also dependent on Mr. Ntemde's completion of medical clearance, reference checks, and obtaining a visa, only after which there would be an "Offer Confirmation".¹⁰

10. On 15 July 2022, Mr. Ntemde filed the application with the UNDT/NY, implying his dissatisfaction with a possible decision not to onboard him for a position.¹¹ In the application, he provided no information on his employment status, including United Nations index number and department, office and section.

11. By e-mail of 15 July 2022, the UNDT/NY Registry instructed him: "[i]n order to correctly process your application, please provide further details about your current employment with the United Nations, including your current position, department and your [United Nations] index

⁵ Impugned Judgment No. UNDT/2023/073, para. 7; 5 January 2021 e-mail from IDEP.

⁶ Impugned Judgment No. UNDT/2023/073, para. 8.

⁷ *Ibid.*

⁸ *Ibid.*, para. 9.

⁹ *Ibid.*, para. 10.

¹⁰ Impugned Judgment No. UNDT/2022/078, para. 15.

¹¹ UNAT Order No. 523 (2023), para. 3; impugned Order, para. 9. According to the Secretary-General, Mr. Ntemde had submitted a request for management evaluation on 14 June 2022, which did not include a clear statement of the administrative decision he wished to contest.

number”.¹² By e-mail of 19 July 2022, the UNDT/NY Registry sent a reminder to Mr. Ntemde, concerning the required information, and directed him to provide it by 10:00 a.m. on 22 July 2022. By e-mail of 27 July 2022, the UNDT/NY Registry requested to provide further details about his current employment with the United Nations, including his current position, department and his United Nations index number by 10:00 a.m. on Thursday, 4 August 2022. Mr. Ntemde did not file any response to the instructions.

12. On 8 August 2022, the UNDT/NY issued the impugned Order, noting that it was necessary for it to receive information on: (a) what exact administrative decision Mr. Ntemde sought to challenge by his 15 July 2022 application; and (b) what his employment status was with the United Nations, including his position, department, office and section, and United Nations index number, or how he otherwise satisfied the prerequisites of Article 3 of the Dispute Tribunal’s Statute for legal standing.¹³ The UNDT/NY warned him that if he failed to provide this information, no other option would then be available to it than to conclude that he did not wish to follow through with his application and the UNDT would dismiss the application for want of prosecution.

13. On 10 August 2022, Mr. Ntemde filed a response to the impugned Order and on 12, 15, 16, 18, 22 and 23 August and 1, 2, 6 and 7 September 2022, filed some additional submissions.¹⁴

14. On 22 August 2022, Mr. Ntemde requested management evaluation of the non-appointment and the selection decisions.¹⁵

15. On 7 September 2022 in the same case, the UNDT/NY issued impugned Judgment No. UNDT/2022/078, finding that none of Mr. Ntemde’s additional submissions were of any relevance to the case and none responded to the questions asked in the impugned Order.¹⁶ The UNDT/NY dismissed Mr. Ntemde’s application as not receivable *ratione personae* because he was not a staff member of the United Nations, and not receivable *ratione materiae* because he had not identified the administrative decision that he wished to challenge.¹⁷

¹² UNAT Order No. 523 (2023), para. 3.

¹³ *Ibid.*, para. 4; see also the impugned Order, para. 14.

¹⁴ UNAT Order No. 523 (2023), para. 5.

¹⁵ Impugned Judgment No. UNDT/2023/073, para. 15.

¹⁶ Impugned Judgment No. UNDT/2022/078, para. 6.

¹⁷ UNAT Order No. 523 (2023), para. 1.

16. The UNDT/NY explained that Mr. Ntemde’s submissions did not establish that an offer of employment had been issued, the Administration had not undertaken to conclude a contract for his recruitment as a staff member and could therefore not be regarded as having extended to him the protection of its system of administration of justice.¹⁸ The UNDT/NY further found that he had failed to state what administrative decision(s) he wished to contest, and noted that the submitted screenshots from Inspira, the online United Nations jobsite, show that he had not completed a range of “pre-recruitment formalities”.

17. On 4 July 2023, Mr. Ntemde filed another application with the UNDT/Nairobi, which it understood as contesting the non-appointment and the selection decisions.¹⁹ He requested to be recognized as a former staff member of ECA. In the UNDT/Nairobi’s view, Mr. Ntemde expected to obtain with this recognition the benefits that go with the status of former United Nations employees, including being assisted by the Office of Staff Legal Assistance (OSLA), and envisaged obtaining compensation of approximately USD 500,000 of what he termed as lost salary income since 2021.

18. By impugned Judgment No. UNDT/2023/073, the UNDT/Nairobi dismissed the application as not receivable *ratione personae* because he was not a staff member of the United Nations, and not receivable *ratione materiae* because the issue had already been litigated, constituting *res judicata*, and because he had not requested management evaluation in time.²⁰

19. The UNDT/Nairobi found that it was clear that Mr. Ntemde was never selected as a staff member, but only as a consultant subject to satisfaction of further pre-recruitment formalities, and that he never occupied that consultancy.²¹ The UNDT/Nairobi also noted that there was no evidence, such as an offer of appointment or a letter of appointment, that DOS ever appointed him to the position of Administrative Assistant. The UNDT/Nairobi was of the view that he had never been a staff member of ECA, IDEP, DOS or any other entity of the United Nations, and had no *locus standi* before the UNDT.

¹⁸ Impugned Judgment No. UNDT/2022/078, para. 11.

¹⁹ *Ibid.*, paras. 2 and 15.

²⁰ See also UNAT Order No. 526 (2023), para. 1.

²¹ Impugned Judgment No. UNDT/2023/073, para. 9.

Procedure before the Appeals Tribunal

20. On 24 August 2022, Mr. Ntemde filed an appeal of the impugned Order with the Appeals Tribunal, to which the Secretary-General filed an answer on 27 October 2022.

21. On 7 September 2022, he filed an appeal of impugned Judgment No. UNDT/2022/078, to which the Secretary-General filed an answer on 28 November 2022.

22. On 18 October 2022, the Appeals Tribunal denied Mr. Ntemde's motions for interim measures pending proceedings in Order No. 479 (2022). On 26 October 2022, in Order No. 487 (2022) on one of Mr. Ntemde's motions for interim measures, and on 28 November 2022, in Order No. 493 (2022) on another motion for interim measures, the Appeals Tribunal recommended him to take legal advice about his situation. In the latter Order, the Appeals Tribunal also noted that documents submitted by him were very extensive, gratuitously insulting and irrelevant, and warned him against abuse of the appeals process in persisting to file repetitive vexatious motions and/or unwarranted and irrelevant documents.

23. On 5 December 2022, in Order No. 495 (2022) on Mr. Ntemde's motion challenging the Registrar's rejection of filings for manifest inadmissibility and request for an oral hearing, the Appeals Tribunal stated that further documents sought to be filed by him were frivolous and vexatious and consisted of gratuitous attacks on, and offensive allegations and egregious insults against, a variety of people. The Appeals Tribunal warned him again that if he persisted in attempting to file irrelevant and scandalous documents, it was empowered to exercise, and would consider exercising, its power to prohibit him from filing any further pleadings except by leave in default of payment of costs so ordered.

24. On 7 December 2022, in Order No. 496 (2022) on Mr. Ntemde's motions for recusal, in-person hearing and associated orders, the Appeals Tribunal noted that he was apparently deliberately ignoring its warnings by attempting to file further improper pleadings, and ordered that unless and until Order No. 496 (2022) was complied with as detailed therein, his appeal be stayed and that the Registrar was not to accept for filing any further pleadings or documents from him. In response to this Order, he submitted "rambling, incomprehensible, and potentially

defamatory comments” against the Judges of the UNDT and the Appeals Tribunal and the Registrar.²²

25. On 13 June 2023, in Order No. 520 (2023) on case management, the Appeals Tribunal observed that, since the issuance of Order No. 496 (2023), Mr. Ntemde had continued to upload more than 2,400 documents into the United Nations Court Case Management System (CCMS), where these documents were irrelevant to the United Nations and/or constitute scurrilous personal attacks on numerous officials of the United Nations, as well as numerous officials of the executive and judicial branches of several countries. Since 13 June 2023, he continued to submit to the Registry approximately 250 additional documents of similar ilk and showed “no sign of ceasing this activity”.²³

26. On 12 July 2023, by Order No. 523 (2023), the Appeals Tribunal consolidated the appeals of the impugned Order and of the impugned Judgment No. UNDT/2022/078. It also ordered that none of Mr. Ntemde’s submissions from 7 December 2022 to that date would be considered and that no further filings from him would be accepted by the Registry or the Appeals Tribunal or considered by the Appeals Tribunal, except if he could demonstrate exceptional circumstances.²⁴ It found that the volume and nature of his filings constituted an abuse of process and of the CCMS.

27. On 21 July 2023, Mr. Ntemde filed an appeal of impugned Judgment No. UNDT/2023/073.

28. On 31 July 2023, in Order No. 526 (2023) on case management, the Appeals Tribunal consolidated all three appeals and noted that, as a consequence, Order No. 523 (2023) extended to Case No. 2023-1829 as well and its terms applied to all three consolidated cases.

29. Since 12 July 2023, Mr. Ntemde has deliberately flouted the Appeals Tribunal’s orders and flooded the CCMS with 1123 documents in his three pending UNAT appeals. For illustrative purposes, the titles of a handful of these documents include:

- Gmail – August 23, 2023 O You Mark Zuckerberg You the Reptilian Nazi Criminal Illuminatis ## I Will Send This Email Continually Until Nazi Facebook and Mark Zuckerberg Close My Account

²² Order No. 520 (2023), para. 8.

²³ Order No. 523 (2023), para. 12.

²⁴ In that Order, para. 13, the Appeals Tribunal noted the “history of extreme filings”, him often submitting “five or more irrelevant documents per day”.

- Picture Vodou Sorcerer [redacted] University Canada who Conspire Against My Family
- My Camerounian Passport Sequester for Three Years by US Gov PR Joe Biden
- Nazi Judge [redacted] the Last Reincarnation of Adolphe Hitler Sept 11 2023
- Letter en September 4 Worldwide Manhunt Story By Ecobank Against Me Son of God the Holy Grail.

30. Some of these individual submissions are hundreds of pages in length. For example, on 25 July 2023, Mr. Ntemde filed multiple copies of one “annex” to a purported motion for interim measures that totaled 477 pages in length. In number and length, these documents submitted in contravention of this Tribunal’s orders have clogged the CCMS with irrelevant and abusive materials.

31. Although wholly irrelevant to Mr. Ntemde’s appeals before this Tribunal, Mr. Ntemde also voluntarily submitted a copy of a judgment of the United States Immigration Court in his removal proceedings. Of note, the U.S. Immigration Judge observed that: “[Mr. Ntemde] has submitted voluminous documents that reflect his delusional thoughts, including his bizarre and disturbing beliefs.” Based on a psychological assessment of Mr. Ntemde, as well as his own testimony, the Immigration Judge opined that Mr. Ntemde appeared to be a “troubled individual who is struggling with an untreated mental health condition” and he was not legally competent, but that the Immigration Court lacked the authority to address this issue.

32. Order No. 523 (2023) stated that if Mr. Ntemde could demonstrate exceptional circumstances, the Appeals Tribunal would consider accepting one final submission from Mr. Ntemde on 15 September 2023, not to exceed 15 pages. On 15 September 2023, Mr. Ntemde filed 54 documents in the CCMS in the three pending appeals, none of which related to the merits of his case or made any argument regarding exceptional circumstances. These 15 September 2023 filings included, for example, one submission of 88 pages in length entitled: “Gmail – Sept 15 2023 For Worldwide Public ## Focus Nine Nazi Corrupt Luciferian Judges of Supreme Court of Canada (...)”.

33. On 22 September 2023, the Secretary-General filed an answer to the appeal of impugned Judgment No. UNDT/2023/073.

Submissions

Appellant's Appeals

Case No. 2022-1727

34. Mr. Ntemde appeals impugned Judgment No. UNDT/2022/078. He complains that the main reason why he was not able to commence his employment as a consultant of ECA was the activity of a corrupt judge of Canada.²⁵ Furthermore, he states that the UNDT/NY Judge probably hated his family.

35. Mr. Ntemde argues that the UNDT/NY committed an error in procedure such as to affect the decision of the case and violated the integrity of the United Nations internal justice system by issuing the impugned Judgment with the same number (078) as an Order in a different case²⁶ and, moreover, at a time when he had appealed the impugned Order (first ground of appeal).

36. He submits that the UNDT/NY erred on a question of fact, resulting in a manifestly unreasonable decision by lying that it had not received his e-mails (second ground of appeal). In the impugned Order, the UNDT/NY had asked him to answer questions which he had already answered—he had answered all prior e-mails from the UNDT/NY Registry.²⁷ What the UNDT/NY considered as comments of lesser importance were facts of extreme gravity. According to Mr. Ntemde, his Nazi enemies prevented him from communicating with the UNDT/NY on the phone.

37. Mr. Ntemde asserts that the UNDT/NY exceeded its jurisdiction or competence by preventing the Respondent from intervening in the case (third ground of appeal). The instruction accompanying the impugned Order²⁸ was unlawful. There is no legal provision or jurisprudence allowing to prohibit the Respondent to respond once the application has been transmitted to them. The UNDT/NY pleaded in place of the Respondent, usurping their functions. The UNDT/NY

²⁵ Mr. Ntemde implies that undue influence was exerted by that judge on decisions to detain him in the United States.

²⁶ Mr. Ntemde refers to the UNDT Order No. 078 (NY/2022) on his application for suspension of action in Case No. UNDT/NY/2022/041.

²⁷ Mr. Ntemde refers to his e-mail of 4 August 2022 in Annex 33 to his appeal, his 3 August 2022 e-mail in Annex 34 and his 15 July 2022 e-mail in Annex 35.

²⁸ Mr. Ntemde cites the instruction as follows: "Until further notice, upon the instructions of the Tribunal, the Respondent is not to file a reply."

Judge behaved like a “demigod” as she refused to schedule hearings and conducted a biased analysis of his statements of fact.

38. He contends that the UNDT/NY erred on a question of law by refusing to conduct an analysis in conformity with *Gabaldon*²⁹ which would have enabled it to conclude that he was a United Nations staff member (fourth ground of appeal).³⁰ It is clear that his unconditional acceptance of the offer of employment was a valid contract because he satisfied all the conditions that depended on him. The offer of employment has not been withdrawn and is still valid.

39. Mr. Ntemde submits that the UNDT/NY failed to exercise jurisdiction vested in it (fifth ground of appeal). The only condition he failed to satisfy was the work permit which, however, was not under his control. Fraud has been committed.³¹ Even if the Organization is not the author of the fraud, the administrative “decision (...) forcing [him] to obtain the [work permit] of the United States”³² was unlawful according to the principle of *fraus omnia corrumpit*.³³

Case No. 2022-1731

40. Mr. Ntemde appeals the impugned Order. He reiterates the second, third, fourth and fifth grounds of appeal.

Case No. 2023-1829

41. Mr. Ntemde appeals impugned Judgment No. UNDT/2023/073.

42. He argues that the UNDT/Nairobi exceeded its jurisdiction or competence and erred in law by contradicting a prior Order³⁴ and challenging its legitimacy (sixth ground of appeal). He intended that the prior Order on the extension of time would authorize him to file a new application in consideration of the fact that he had requested management evaluation after the 60-day time

²⁹ *Gabaldon v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-120.

³⁰ It is implied in other parts of the appeal that here Mr. Ntemde refers to the position of Administrative Assistant, DOS, and the selection decision.

³¹ Mr. Ntemde provides a non-exhaustive list of perpetrators of alleged fraud but does not explain the basis for the allegation or its import on his case.

³² Mr. Ntemde does not provide further details on any administrative decision requiring him to obtain a work permit.

³³ The legal principle, meaning “fraud vitiates everything”, purposes to refuse the application of a legal rule on the basis of fraud or, more specifically, to invalidate all aspects of a judicial decision in case fraud is discovered.

³⁴ It follows from an excerpt that Mr. Ntemde refers to UNDT Order No. 114 (NBI/2023) on a motion for extension of time to file an application.

limit, as it did: by granting the extension, the UNDT/Nairobi had accepted that his request for management evaluation had been properly submitted. There was no Respondent in the proceedings and the UNDT/Nairobi dishonestly usurped the functions of a Respondent. Interested parties³⁵ should have certified during the hearing that he was a United Nations staff member.

43. Mr. Ntemde reiterates the fourth ground of appeal and refers to his “unconditional acceptance” of his “two contracts [regarding the positions at the] UN [in] New York and [the] Economic Commission for Africa”.

44. He reiterates the fifth ground of appeal and adds that the two last Administrations of the United States “kidnap[p]ed” and imprisoned him, and that during a 15 May 2023 hearing before a United States immigration court, a United States prosecutor in his case disclosed several details about the fraud committed against him.³⁶

45. Mr. Ntemde, terming this part of his submissions as another ground of appeal and also a complaint against the UNDT/Nairobi Judge, contends that the Judge was incompetent and probably has mental problems and that a psychological and psychiatric evaluation of the Judge should be conducted (seventh ground of appeal).

The Secretary-General’s Answers

Case No. 2022-1727

46. The Secretary-General requests that the Appeals Tribunal dismiss the appeal or, if not, remand the matter to the UNDT/NY for adjudication on the merits.

47. The Secretary-General argues that the UNDT/NY correctly dismissed the application as not receivable. Mr. Ntemde admitted that he was not a staff member: “I am not yet employed in the United Nations (...)”.³⁷ The record shows an incomplete pre-recruitment process which, by his admission, was due to reasons external to the United Nations.

³⁵ Mr. Ntemde refers to staff members of the UNDT Registry.

³⁶ Mr. Ntemde alleges that the prosecutor stated that the United States Government had lost or “torn” up his Cameroonian passport, that it had possession of his belongings, that it had approved his work permit probably in March 2023 but he had not received the permit. Mr. Ntemde also alleges that the United States Post office has conceded to its involvement in the fraud.

³⁷ The Secretary-General refers to Mr. Ntemde’s response to Order No. 074 (NY/2022), para. 17.

48. The Secretary-General contends that the appeal fails to establish any reversible error by the UNDT/NY. Besides the fact that Mr. Ntemde's claim of procedural errors lacks merit, he fails to explain how any of these errors undermine the correctness of the conclusion that the application was not receivable. He fails to demonstrate any error in the UNDT/NY's assessment of his submissions. The UNDT/NY enjoys considerable discretion in case management. Mr. Ntemde misconstrues *Gabaldon* and, contrary to his claim, it was considered by the UNDT/NY. The record does not substantiate that failure to obtain a work permit was the only condition he failed to meet. Furthermore, it is irrelevant as it has no bearing on the issues on appeal.

Case No. 2022-1731

49. The Secretary-General requests that the Appeals Tribunal dismiss the appeal.

50. The Secretary-General argues that the interlocutory appeal is not receivable as Mr. Ntemde has failed to demonstrate that the UNDT/NY clearly exceeded its jurisdiction or competence. The impugned Order is a case management order. The UNDT/NY acted well within its competence in requesting information needed to examine issues relating to its jurisdiction, namely the administrative decision subject to judicial review and his legal standing. The remainder of his submissions are irrelevant to the issue of receivability and should be disregarded. In any event, they do not provide a basis for interfering with the impugned Order.

Case No. 2023-1829

51. The Secretary-General requests that the Appeals Tribunal dismiss the appeal or, if not, remand the matter to the UNDT/Nairobi for adjudication on the merits.

52. The Secretary-General argues that the UNDT/Nairobi correctly dismissed the application as not receivable. There was nothing in the record to support a finding that Mr. Ntemde was a staff member or was otherwise entitled to access the internal justice system. Secondly, as his claims of being a former or current staff member have already been litigated, the UNDT/Nairobi was correct in finding the application barred by *res judicata*. Finally, even if he had been entitled to request management evaluation, which he was not, he would have had to file his requests within the statutory period, which he did not.

53. The Secretary-General contends that the appeal fails to establish any reversible error by the UNDT/Nairobi. Mr. Ntemde seeks to impermissibly relitigate his case. He fails to demonstrate

any error in the UNDT/Nairobi's findings. There is nothing on record evidencing that he ever received a signed letter of appointment.³⁸ He was under consideration for engagement as a consultant and not as a staff member. His reliance on *Gabaldon* is misguided. His other submissions on various topics, many of which are entirely inappropriate, do not claim any error by the UNDT/Nairobi and are irrelevant to the present case.

Considerations

Request for oral hearing

54. Mr. Ntemde requested an oral hearing, noting in his appeal form that his case was “the most complex litigation []ever seen in (...) history”.

55. Disposal by the Appeals Tribunal of requests for oral hearings is governed by its Statute and Rules of Procedure. Article 8(3) of the UNAT Statute provides:

The judges assigned to a case will determine whether to hold oral proceedings.

56. Article 18(1) of the UNAT Rules of Procedure further specifies:

The judges hearing a case may hold oral hearings on the written application of a party or on their own initiative if such hearings would assist in the expeditious and fair disposal of the case.

57. According to the foregoing rules and our abundant jurisprudence,³⁹ the Appeals Tribunal has discretion to determine whether to hold an oral hearing or not with the aim of dealing with the case efficiently and fairly. In the present case, the factual and legal issues arising from Mr. Ntemde's appeals are clearly defined and there is no need for further clarification. We do not see that an oral hearing would “assist in the expeditious and fair disposal of the case”. Mr. Ntemde's request for an oral hearing is therefore denied.

³⁸ The Secretary-General cites Article 101 of the United Nations Charter and Staff Regulation 4.1.

³⁹ See, e.g., *Mustapha Guenfoudi v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1364, paras. 61-63.

Receivability of the appeal of the impugned Order

58. The competence of the Appeals Tribunal is provided in Article 2(1) of the UNAT Statute. It sets out the following:

The Appeals Tribunal shall be competent to hear and pass judgement on an appeal filed against a judgement rendered by the United Nations Dispute Tribunal in which it is asserted that the Dispute Tribunal has:

- (a) Exceeded its jurisdiction or competence;
- (b) Failed to exercise jurisdiction vested in it;
- (c) Erred on a question of law;
- (d) Committed an error in procedure, such as to affect the decision of the case; or
- (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

59. Concerning orders on case management, Article 19 of the UNDT Rules of Procedure provides:

The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

60. In *Toson*⁴⁰, we have emphasized that a disaffected party may appeal against such an order in a narrow range of cases and only on grounds that the UNDT exceeded its jurisdiction or competence. We explained:

(...) Under Article 2 of the Statute of the Appeals Tribunal, appeals are allowed against “judgments” of the UNDT. The Appellant’s complaint is against an interlocutory order of the UNDT, that is against procedural directions affecting the consideration and decision of the case that would result in a judgment. This is an element of UNDT case management. There is previous authority of this Tribunal that confirms that in a narrow range of cases, a disaffected party can appeal against such an order, but only on grounds that the UNDT exceeded its jurisdiction or competence: see *Nadeau* and *Igunda*. Appeals against interlocutory orders affecting such matters as evidence, procedure and trial conduct are not receivable, at least not until they may form part of an appeal against the UNDT’s substantive judgment.

⁴⁰ *Asr Ahmed Toson v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1160, para. 24 (internal citations omitted).

61. The impugned Order is an interlocutory order of the UNDT/NY, which is a procedural direction to the party, here Mr. Ntemde, to provide relevant information. It is a measure taken by the UNDT/NY on case management and is obviously beyond the competence of the Appeals Tribunal. Therefore, Mr. Ntemde's challenge to the impugned Order is not receivable and this appeal is dismissed.

Merits of the appeals of the impugned Judgments

62. We consider next whether Mr. Ntemde has demonstrated that the UNDT, in deciding that his applications were not receivable, failed to exercise jurisdiction vested in it, erred on a question of law, committed an error in procedure, such as to affect the decision of the case, or erred on a question of fact, resulting in a manifestly unreasonable decision.

63. Article 2(1) of the UNDT Statute provides that the UNDT is not competent to pass judgment on an application if it is not filed by an individual having the right to file an application pursuant to Article 3(1) of the Statute or if the application does not appeal an administrative decision alleged to be in non-compliance with the staff member's terms of appointment:

The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary- General as the Chief Administrative Officer of the United Nations:

(2) (a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms "contract" and "terms of appointment" include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance;

...

64. As we affirmed in *Basenko*,⁴¹ the personal jurisdiction of the Dispute Tribunal is quite limited: "pursuant to Articles 2.1 and 3.1 of the [UNDT] Statute, [its competence] was limited to cases brought by staff members, former staff members or persons making claims in the name of incapacitated or deceased staff members of the United Nations".

⁴¹ *Basenko v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-139, para. 9.

65. Article 3(1) of UNDT Statute specifies which individuals have the right to file an application:

An application under article 2, paragraph 1, of the present statute may be filed by:

- (a) Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;
- (b) Any former staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;
- (c) Any person making claims in the name of an incapacitated or deceased staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes.

66. According to Article 8(1) of the UNDT Statute, an application is not receivable if the UNDT is not competent to pass judgment on it or the applicant is ineligible to file an application or the applicant did not previously submit a requisite timely request for management evaluation:

An application shall be receivable if:

- (a) The Dispute Tribunal is competent to hear and pass judgement on the application, pursuant to article 2 of the present statute;
- (b) An applicant is eligible to file an application, pursuant to article 3 of the present statute;
- (c) An applicant has previously submitted the contested administrative decision for management evaluation, where required; and

...

67. In the present cases, Mr. Ntemde did not submit documents to prove that he was a United Nations staff member. He is neither a former staff member of the United Nations nor a person making claims in the name of an incapacitated or deceased staff member of the United Nations. Accordingly, pursuant to Article 3(1) of the UNDT Statute, Mr. Ntemde has no legal standing before the UNDT.

68. Mr. Ntemde argued that his case was similar to *Gabaldon*. In *Gabaldon*, we identified the circumstances under which an applicant without a letter of appointment could be regarded as a staff member for the purpose of having the right to file an application:⁴²

(...) a contract concluded following the issuance of an offer of employment whose conditions have been fulfilled and which has been accepted unconditionally, while not constituting a

⁴² *Gabaldon* Judgment, *op. cit.*, para. 28.

valid employment contract before the issuance of a letter of appointment under the internal laws of the United Nations, does create obligations for the Organization and rights for the other party, if acting in good faith. Having undertaken, even still imperfectly, to conclude a contract for the recruitment of a person as a staff member, the Organization should be regarded as intending for this person to benefit from the protection of the laws of the United Nations and, thus, from its system of administration of justice and, for this purpose only, the person in question should be regarded as a staff member.

69. This rule is also affirmed in subsequent jurisprudence, e.g., in *Ross*:⁴³

(...) In *Al Hallaj*, the Appeals Tribunal established that a quasi-contract formed when an offer of employment is unconditionally accepted by the person who fully satisfies the conditions specified within, is sufficient to allow for the person, albeit not yet a staff member of the Organisation, to challenge a decision stemming from such a quasi-contract. (...)

70. In *Gabaldon*, the appellant had already accepted the offer of appointment from the United Nations. He had satisfied all the conditions of the offer of employment such as medical clearance and was therefore entitled to have access to the United Nations system of administration of justice. According to *Gabaldon*, procedural rights are created when an offer of employment is issued, the conditions of the offer of employment have been fulfilled and the offer of employment has been accepted unconditionally. That is not the case here.

71. As we held in *Arango*,⁴⁴ when a “decision to appoint ha[s] not been finalized” because it is “still subject to other internal processes”, the applicant may not be considered a staff member.

72. First, in the present case, there is no evidence of an offer of appointment having been issued to Mr. Ntemde for either post. Second, he failed to complete the pre-recruitment formalities for both the post of consultant for IDEP and the post of Administrative Assistant at DOS. Third, he failed to confirm, within a reasonable time, his interest and availability for the consultancy. The Administration had not undertaken to conclude a contract for his recruitment as a staff member. Lastly, Mr. Ntemde’s claims about a consultancy for IDEP are not receivable as consultants are not staff members of the United Nations and, pursuant to Article 3(1) of the UNDT Statute, may not file applications with the UNDT. Therefore, even if he had been a consultant at IDEP, his applications would not have been receivable before the UNDT.

⁴³ *Ross v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1000, para. 74 (internal citation omitted).

⁴⁴ *Jose Daniel Arango v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1120, para. 32.

73. Because no formal appointments or contracts were ever concluded with Mr. Ntemde, he cannot be regarded as a staff member and thus is barred from access to the Tribunals. The UNDT did not err in finding that Mr. Ntemde's two applications were not receivable *ratione personae*.

74. Given this holding, we need not discuss the UNDT's finding that Mr. Ntemde's application was not receivable *ratione materiae*.

75. In sum, none of Mr. Ntemde's seven grounds of appeal have established any error of the UNDT in finding his applications not receivable.

Abuse of process

76. The Appeals Tribunal now turns to how Mr. Ntemde has litigated his case before us.

77. Article 4 of the Code of Conduct for Legal Representatives and Litigants in Person (Code) provides the basic standards of conduct as follows:

1. Legal representatives and litigants in person shall maintain the highest standards of integrity and shall at all times act honestly, candidly, fairly, courteously, in good faith and without regard to external pressures or extraneous considerations.
2. Legal representatives and litigants in person shall act diligently and efficiently and shall avoid unnecessary delay in the conduct of proceedings.

78. As regards a party's conduct in relation with the Tribunals, Article 8 of the Code specifies:

1. Legal representatives and litigants in person shall assist the Tribunals in maintaining the dignity and decorum of proceedings and avoiding disorder and disruption.
2. Legal representatives and litigants in person shall be diligent in complying with the statutes, rules of procedure, practice directions and orders, rulings or directions that may be issued by the Tribunals.

79. Finally, Article 9 of the Code provides that the Tribunals may issue orders, rulings or directions in order to implement the provisions of the Code.

80. As we have affirmed in *Igbinedion*⁴⁵, persons appearing before a tribunal, "must conduct themselves appropriately and must comply with orders and judgments of the court" and the "ability to promote and protect the court, and to regulate proceedings before it, is an inherent

⁴⁵ *Igbinedion v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-410, paras. 31 and 32.

judicial power”. In addition, we have upheld the authority of this Tribunal to refuse an individual party access to prosecute cases for non-compliance of an order of costs due to that party’s abusive behavior in making derogatory, baseless and abusive statements in clear violation of Articles 4 and 8 of the Code.⁴⁶ We have furthermore held irrelevant submissions attacking a Judge to be an abuse of the appeals process and have affirmed the authority of this Tribunal to ignore them.⁴⁷

81. As we mentioned above, Mr. Ntemde has no legal standing before either the Dispute or Appeals Tribunal. Nonetheless, he has deliberately flouted the orders of the Appeals Tribunal. He has continuously filed exceedingly extensive, gratuitously insulting and irrelevant documents constituting scurrilous personal attacks on numerous officials of the United Nations and several countries. He has submitted potentially defamatory comments against the Judges of the UNDT and the Appeals Tribunal and the Registrar of the Appeals Tribunal.

82. Mr. Ntemde shows no signs of discontinuing with his applications, motions, and appeals. Indeed, he has multiple filings pending before the UNAT and the UNDT Registries regarding the same litigation, which the Registry has properly not accepted pursuant to our Order No. 523 (2023). It is obvious that as a litigant, Mr. Ntemde has failed to comply with the Code. Mr. Ntemde’s activity constitutes an abuse of the CCMS and abuse of process.

83. Mr. Ntemde’s abuses have been extremely burdensome not only for the UNAT Registry but the two UNDT Registries as well. The amount of administrative and judicial resources that have been spent to date by the Organization on an individual who is not a staff member is unprecedented. We recall that the General Assembly has requested the Tribunals to follow procedures for dismissing manifestly inadmissible cases,⁴⁸ in light of the substantial cost to the Organization of addressing frivolous filings.⁴⁹ If we tolerate Mr. Ntemde’s continuous abuse of the CCMS and the judicial process, it is unfair to the staff members who have legal standing before the Tribunals, as well as a misuse of the precious resources of the Organization.

84. We find that Mr. Ntemde has abused the judicial process. This would normally attract an award of costs against him. However, given the notably unique circumstances of this case

⁴⁶ *Nouinou v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-981, para. 34.

⁴⁷ *Haydar v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-821, para. 22.

⁴⁸ General Assembly resolution A/RES/66/237 of 24 December 2011, para. 30.

⁴⁹ Report of the Secretary-General to the General Assembly A/66/275 on the administration of justice, para. 253, noting that the cost to the Organization of issuing a full judgment in a frivolous case is USD 3,600 per judgment, in addition to the costs incurred by the Organization in preparing responses to such an appeal.

and Mr. Ntemde's status as an individual external to the Organization, an award of costs would not be a practical measure for addressing his conduct.

85. Therefore, we must put an end to this abuse, and order Mr. Ntemde to refrain from using the CCMS and the United Nations internal justice system for any purpose, unless and until such time that Mr. Ntemde is able to present verifiable proof that he meets the legal standing requirements of Article 3(1) of the UNDT Statute, such as presentation of a United Nations Index Number.

86. The Appeals Tribunal will not consider any further motions, appeals, applications or any other type of document that relates to, or arises from, the facts, circumstances and procedures underlying the UNDT/NY Order No. a 074 (NY/2022), UNDT Judgment Nos. UNDT/2022/078 and UNDT/2023/073 and this Judgment.

87. This is a unique case and we do not take this course of action lightly. We make the orders below solely on the abnormal facts and circumstances of this case. It has no precedential value.

Judgment

88. Mr. Ntemde's appeal of the UNDT Order No. 074 (NY/2022) is dismissed as not receivable. Mr. Ntemde's appeals of the impugned Judgments are dismissed and Judgment No. UNDT/2022/078 and Judgment No. UNDT/2023/073 are hereby affirmed.

89. Mr. Ntemde is instructed to refrain from using the CCMS and the United Nations internal justice system for any purpose, unless and until such time that Mr. Ntemde is able to present verifiable proof that he meets the legal standing requirements of Article 3(1) of the UNDT Statute. He is also instructed to refrain from all outside communication with the Judges and Registries of the UNDT and the Appeals Tribunal.

90. The Registrar is instructed to disregard all documents or correspondence received from Mr. Ntemde up to the date of this Judgment and any further document or correspondence from him, submitted to relitigate this case.

Original and Authoritative Version: English

Decision dated this 27th day of October 2023 in New York, United States.

(Signed)

Judge Gao, Presiding

(Signed)

Judge Sandhu

(Signed)

Judge Sheha

Judgment published and entered into the Register on this 8th day of November 2023 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar