

JUDGE DIMITRIOS RAIKOS , PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal or UNAT) is seized of an appeal against Judgment No. UNDT/2021/084 (the Impugned Judgment).² Several staff members of the Department of General Assembly and Conference Management (DGACM) joined in two separate applications (collectively, Applicants) to the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) to challenge the “unilateral change in the individual workload st4.2 (ch)-3.7 (ang)-5nchangati>3mt14 7 23.7 2(du)1.-3.s-5.1 (t23.7 2(dh)-3.7)1.3 (l)o

THE UNITED N

12.

Submissions

The Appeal

16. The main contention of the Appellants centres around the issue of when the decision to revise the workload standards was

fhe5saf

The Secretary -General's Answer

21. The Secretary-General first submits

THE UNITED NATIONS APPEALS TRIBUNAL

review. With an implied administrative decision, the UNDT must determine the date on which the staff member knew or reasonably should have known of the decision he or she contests, based on objective elements that both parties can accurately determine.

38. Thus, quite different is the matter of the communication of the administrative decision to its recipient/s (addressees), i.e., that of the notification of it or otherwise, by which the staff member is put to notice about the existence and the content of an extant administrative decision and which triggers the time limits for formal review of it. In that respect, per our jurisprudence, there is no explicit requirement for written notification as a prerequisite to contest an administrative decision.²⁰ So, there may be a written or verbal communication of the relevant decision. However, if there is no written notification, it is incumbent on the body reviewing the matter to consider whether the circumstances surrounding the verbal communication still constitute notification.²¹

39. In terms of that communication of the administrative decision, the Appeals Tribunal has also ruled, for example, in prior cases, that if there is a meeting wherein a staff member is verbally advised of an administrative decision, the Appeals Tribunal will review whether there are subsequent written communications including minutes, if they were “unsigned, undated and not shared” at the time, and whether the meetings had the “aim of notification of the administrative decision” or some other topic.²² If not, the verbal communication does not constitute “notification”. In determining the decisive moment of communication, the

THE

the resolution. As a result, the announced imposition of new standards of performance assessment, including an unwarranted extrapolation of the increase to self-revision that had not been approved by or even reported to the General Assembly, constituted, per the Appellants' claim, an adverse administrative decision affecting their staff member status.

44. Further, in order to show that the 8 April 2021 announcement had been implemented related to the concerned staff members on an individual basis, the Appellants had brought to the attention of the UNDT of an e-mail dated 1 April 2021 from the C

48. Then, the UNDT proceeded to state that the measures announced by the USG/DGACM on 8 April 2021 were meant to be implemented on 1 May 2021 and that the annexes submitted

General Assembly resolution and that the Appellants did not show how the Meeting adversely impacted their terms of employment.

52. We have gone through the record of the case, examined the grounds of appeal, the Respondent's Answer, and hold that the UNDT erred in finding that the above announcement dated 8 April 2021 was not an appealable administrative decision for the purpose of Article 2(1) to the UNDT Statute. It is the considered view of the Appeals Tribunal that, applying the test set out in our pertinent jurisprudence, the announcement by the USG/DGACM on 8 April 2021 contained therein all the necessary components referred to in this jurisprudence to give rise to legal consequences for the Appellants in their capacity as staff members of the DGACM.

53. More particularly, under the specific circumstances of the case at bar and the overall assessment of the impugned 8 April 2021 announcement by the USG/DGACM, namely his decision to begin implementing the recommendations of the Working Group on workload standards approved by the General Assembly in resolution 75/252 as of 1 May 2021, along with the content of the above mentioned recommendation on 7 April 2021 of the Working Group on workload standards,

THE U

Judgment

58. The Appeals Tribunal grants the appeal and reverses Judgment No. UNDT/2021/084. The case is remanded to the UNDT for a trial on the merits.

Original and Authoritative Version: English

Decision dated this 1st day of July 2022 in New York, United States.

(Signed)

Judge Raikos

ANNEX 1.

LIST OF APPELLANTS

1. Ovcharenko, Egor
2. Kutner, Daniel
3. Skourikhine, Alexandre P.
4. Zhang, Tonghuan
5. Zhang, Yenlin
6. Al Khaled, Mohamad Louay
7. Sainz Goutard, Veronica
8. Valenta, Muriel
9. de la Fuente Noriega, Maria
10. Cui, Ying
11. García Soto, María Elisa
12. Zhao, Xingmin
13. Wang, Sen
14. Zhurbina, Maria
15. Jiang, Jieyi
16. Faouzi, Driss
17. Loutoux, Patricia
18. Slavnov, Vladimir
19. Ferrer Amich, Alfonso
20. Ghailan, Ahmed
21. Sanchez-Real, Enrique
22. Valmalette, Alain
23. Gracia-García, Roberto
24. Caldin, Galina
25. Girard- Urquhart, Coralie
26. Locker, Astrid
27. Sánchez Bou, Ana Isabel
28. Wallart, Elizabeth
29. Salathe, Edouard
30. Acker, Marine
31. Gonzalez Silva, Pablo Gonznez
32. Grunina, Yulia
33. Siegel, Alexis
34. Begisheva, Olga
35. Collier, Rebeca
36. Andreevskaya, Viktoriya
37. Caldin, Thomas
38. Johnson, Laura
39. Marquot, Lise
40. Blinov, Vladimir
41. Meyer, Olivier
42. Nissou, Bruno Michel
43. Hernandez Garcia, Eleonora
44. Helluy -Tignol, Florence
45. Salatko-Petryszce, Isabelle
46. Fadel-Ostojic, Judy
47. Legardeur, Blandine