

UNDT/2011/028, Larkin

UNAT Held or UNDT Pronouncements

The Tribunal found that the application was irreceivable as time-barred; it was also without merit because the alleged conflict of interest was not deemed to exist.

Independent status: Bodies endowed with an independent status are integrated in the structure of the Organization and, whilst they may not receive instructions from their chain of command in performing the tasks entrusted to them, they are not entirely detached from the Secretary-General's authority.

Administrative decisions: The Tribunal is not competent to examine the legality of acts other than administrative decisions. Redress for breaches resulting from different actions or conducts would need to be sought through other avenues as appropriate.

Time limits: Pursuant to staff rule 11.2, paragraphs (a) and (c), management evaluation must be requested within 60 calendar days from the date on which the staff member received notification of the contested decision. It is of no relevance at what point the Applicant developed the idea that the circumstances he already knew warranted contesting the decision. The mandatory time limits for contestation run from the moment the concerned staff member has knowledge of the relevant circumstances and the said time limits are meant to be applied strictly.

Conflict of interest: For a lawyer, it is nothing unusual to fulfill different roles within his or her professional career. The fact that the Chief, OSLA, has worked for UNHCR before does not necessarily mean that he will be disqualified from handling cases of clients who are contesting UNHCR decisions. Of course, where, in a specific case, a lawyer has already acted for a party, this person, after having changed sides, may not act as lawyer for the other side on the same case without a conflict of interest.

Decision Contested or Judgment/Order Appealed

The decision by the Chief, Office of Staff Legal Assistance ("OSLA"), Office of Administration of Justice, UN Secretariat, not to disclose a conflict of interest, of which the Applicant claims he became aware in November 2009.

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Larkin

Entity

UN Secretariat

Case Number(s)

UNDT/GVA/2010/078

Tribunal

UNDT

Registry

Geneva

Date of Judgement

2 Feb 2011

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Costs

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Temporal (ratione temporis)

Legal services (OSLA or other) and self-representation

Applicable Law

Other UN issuances (guidelines, policies etc.)

- A/61/205
- A/62/294 (Report to the GA)

Staff Rules

- Rule 11.2(a)
- Rule 11.2(c)

UNDT Statute

- Article 10.6
- Article 2.1

Related Judgments and Orders

UNDT/2009/086

UNDT/2010/019

UNDT/2010/108

UNDT/2010/111

UNDT/2010/112

UNDT/2011/005

UNDT/2011/006

UNDT/2011/024

2010-UNAT-013

2010-UNAT-030

2010-UNAT-043

2010-UNAT-069