

# UNDT/2012/155, Miseleni

## UNAT Held or UNDT Pronouncements

Receivability *ratione materiae* of application for suspension of action pending management evaluation: In order for the Tribunal to act upon an application for suspension of action submitted pursuant to article 2.2 of its Statute, an “administrative decision” must be at issue. According to the Tribunal’s case law, a challengeable administrative decision is a decision taken by the Administration which carries direct legal consequences in respect of the applicant’s rights under the terms of his or her appointment or contract of employment.

## Decision Contested or Judgment/Order Appealed

By letter dated 31 August 2012, the Applicant was informed that he met the criteria set out in a UNHCR internal memorandum setting special measures for reduction in workforce, and that his indefinite appointment could therefore be subject to termination in the event he was not selected for any vacant post in the course or before the September 2012 selection exercise. He challenged this “decision” before the Tribunal. The Tribunal considered that, since the Applicant’s termination for reduction of staff was only hypothetical, the content of the letter of 31 August 2012 could not be considered to directly affect his rights. It accordingly rejected the application as irreceivable, as well as the Respondent’s request for costs against the Applicant.

## Legal Principle(s)

N/A

## Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Miseleni

Entity

UNHCR

Case Number(s)

UNDT/GVA/2012/082

Tribunal

UNDT

Registry

Geneva

Date of Judgement

22 Oct 2012

Duty Judge

Judge Cousin

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Separation from service

Suspension of action / interim measures

Irreparable damage  
Particular urgency  
Prima facie unlawfulness  
Receivability  
Applicable Law  
UNDT Statute

- Article 2.1
- Article 2.2

Related Judgments and Orders  
UNDT/2010/111  
UNDT/2010/112