

UNDT/2013/147, Lee

UNAT Held or UNDT Pronouncements

The Tribunal noted that for an application to be receivable, the decision that is being challenged has to be an “administrative decision” under the provisions of the Tribunal’s Statute. In the present case, the abolition of the post at stake had not yet been formally approved by the United Nations General Assembly. The Tribunal found that the mere proposal to abolish a post does not constitute an “administrative decision”, because it does not produce “direct legal consequences”. Therefore, and since the Applicant did not challenge an administrative decision, the Tribunal decided that her application is not receivable, *ratione materiae*.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the abolition, as of 1 January 2014, of the post she encumbered.

Legal Principle(s)

Summary judgment is appropriate in case the Tribunal finds an application not receivable based on the facts submitted in the application. The application’s receivability may be assessed as a matter of law even without serving the application to the Respondent or without awaiting his reply and even if not raised by the parties. Administrative decision: The proposal, submitted by the Secretary-General to the General Assembly, to abolish a post in the regular budget does not constitute a challengeable administrative decision, because it does not produce direct legal consequences on the Applicant, since it is exclusively the prerogative of the General Assembly to decide on the budget of the Organization.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Lee

Entity

DM

Case Number(s)

UNDT/GVA/2013/66

Tribunal

UNDT

Registry

Geneva

Date of Judgement

26 Nov 2013

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

UNDT RoP

- Article 9

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2013-UNAT-313

2013-UNAT-335