

UNDT/2014/005, Terragnolo

UNAT Held or UNDT Pronouncements

The Tribunal found that the first part of the application was not receivable, since the Applicant lacked legal standing, and that the second part of the application, while receivable, was unfounded, since the Secretary-General, who has the duty to facilitate the holding of the elections to the UNSCP, had no power, whatsoever, to interfere in the actual conduct and results of the elections.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decisions to grant time release and administrative support to “ineligible staff representatives” to the United Nations Staff Pension Committee (“UNSPC”), and the refusal, by the ASG/OHRM on behalf of the Secretary-General, to take action on the notification that one of these elected members allegedly had a conflict of interest and committed electoral violations during the polls.

Legal Principle(s)

Legal standing: If an Applicant has no stake in the contested administrative decision since his individual rights and terms of employment were not affected by it, the application has to be rejected for lack of legal standing. Staff members’ rights as a UNJSPF participant: It results from staff regulation 6.1 and staff rule 6.1 that a staff member who is a participant in the UNJSPF has a right to proper representation in the Fund’s governance structure. Therefore, a decision, on behalf of the Secretary-General, not to take action on a claim for conflict of interest and breach of electoral regulations at UNSPC elections constitutes an administrative decision under art. 2 of the Tribunal’s Statute. The Secretary-General’s authority in election matters to the UNSPC: The UNSPC is an integral part of the administration of the Fund and its governance structure; accordingly, the eligibility of candidates to represent participants at the UNSPC, including any potential conflict of interest or length of term, is to be determined exclusively under the Fund’s Regulations and Rules, which is a self-contained regime, into which the Secretary-General cannot interfere.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Terragnolo

Entity

DGACM

Case Number(s)

UNDT/GVA/2013/35

Tribunal

UNDT

Registry

Geneva

Date of Judgement

20 Jan 2014

Duty Judge

Judge Cousin

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

United Nations Joint Staff Pension Fund (UNJSPF)

Applicable Law

Staff Regulations

- Regulation 6.1

Staff Rules

- Rule 6.1

UNDT Statute

- Article 10.6

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2013/110

UNDT/2012/036

2012-UNAT-238

2010-UNAT-073

2010-UNAT-030