

UNDT/2014/061, Nielsen

UNAT Held or UNDT Pronouncements

The Tribunal noted that the rebuttal process was still ongoing and that no administrative decision had yet been taken; it further found that the UNFPA Rebuttal Policy was a regulatory instrument which was not of individual application and did not carry direct legal consequences on the Applicant; hence, these matters of the application were found to be irreceivable. Further, with regard to the Applicant having been denied access to the UN City Building on 13 February 2014, as well as the blocking of her emails after the end of her contract, the Tribunal noted that these events referred to situations that happened while she no longer had an appointment with UNFPA; thus, she lacked legal standing to bring them before the Tribunal, as she could not claim any breach of her rights as a staff member. The Tribunal concluded that the proceedings would continue only with respect to the decisions not to select the Applicant for two positions.

Decision Contested or Judgment/Order Appealed

The Applicant challenged several decisions, namely her non-selection to two positions, the rebuttal procedure with respect to her 2013 performance evaluation, the UNFPA Rebuttal Policy in general, the blocking of her personal emails sent to UNFPA and her having been barred from entrance to UNFPA premises after the end of her temporary appointment with UNFPA.

Legal Principle(s)

Receivability: Regulatory instruments do not have the characteristics of an administrative decision as defined by the Appeals Tribunal, namely they are not of individual application and do not carry direct legal consequences on an Applicant's rights. Summary judgment: Matters of law may be adjudicated by the Tribunal even without serving the application to the Respondent for the reply and even if they

were not raised by the parties. The Tribunal may at its own initiative decide on issues of receivability by way of summary judgment, in accordance with art. 9 of its Rules of Procedure.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Nielsen

Entity

UNFPA

Case Number(s)

UNDT/GVA/2014/028

Tribunal

UNDT

Registry

Geneva

Date of Judgement

13 Jun 2014

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

- Article 2.1

Related Judgments and Orders

UNDT/2014/032

2013-UNAT-304

2014-UNAT-406

2013-UNAT-335

2013-UNAT-313