

UNDT/2014/138, Mariki

UNAT Held or UNDT Pronouncements

ReceivabilityThe placement of a staff member on administrative leave is within the discretion of the Secretary-General. It is an administrative decision for the purposes of art. 8.1 (c) of the Statute and within the well settled meaning of an administrative action as laid down in Andronov. The Tribunal cannot assume jurisdiction to determine the validity of an administrative decision unless it has been first referred to the Management Evaluation Unit pursuant to art.11.2 of the Staff Rules. In the absence of management evaluation of the decision to place the Applicant on administrative leave, the matter is not receivable.
The Power of the Tribunal in Disciplinary MattersThe Tribunal is required to consider not only the administrative decision of the Secretary-General to impose a disciplinary measure but should also review the evidence placed before him on which the decision was taken. This exercise requires the Tribunal to determine whether a proper investigation into the allegations was conducted.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's decision to separate her from service, with compensation in lieu of notice and with termination indemnity for misconduct. The Tribunal found in favour of the Respondent, and the Application was dismissed.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mariki

Entity

ICTR

Case Number(s)

UNDT/NBI/2012/46

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

2 Dec 2014

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

Administrative Instructions

- ST/AI/2010/1

Staff Regulations

- Regulation 1.2(e)
- Regulation 1.2(f)
- Regulation 1.2(g)
- Regulation 1.2(l)

Staff Rules

- Rule 1.2

UNDT RoP

- Article 16.2

UNDT Statute

- Article 8.1(c)

Related Judgments and Orders

UNDT/2014/001

UNDT/2010/024

2013-UNAT-364

2010-UNAT-087

2011-UNAT-164

2013-UNAT-334