

UNDT/2014/141, Birya

UNAT Held or UNDT Pronouncements

The Tribunal found no evidence that a Weapons Restriction was placed on the Applicant on 4 February 2013 or in October 2013. The question of weapons restriction did not arise until 18 July 2014 when, following the Applicant's refusal to attend a firearms training course, the Chief of Security gave him written notice. The Tribunal found the Application receivable but dismissed it on the merits. Receivability - The Tribunal gave the Applicant, who is unrepresented, the benefit of the doubt about the identification of the impugned decision in the interests of not depriving him of a full consideration of his claim on the merits. The Tribunal found that the Applicant had identified an administrative decision that he alleged not to be in compliance with his terms of employment and, based on the date which he alleged he was notified of that decision he had complied with the time limits for requesting management review of that decision. The Application was therefore found to be receivable. Frivolous and vexatious applications – Noting that there is a fine line between proceedings that are unmeritorious and those that amount to an abuse of proceedings, the Tribunal concluded that the present case was certainly unmeritorious but did not reach the high threshold of abuse of proceedings. Thus, the Tribunal rejected the Respondent's prayer that there be an award of costs against the Applicant.

Decision Contested or Judgment/Order Appealed

On 6 September 2014, the Applicant filed an Application with the Tribunal contesting "Procedural failure by the UNON Administration in placing Weapons Restriction".

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Birya

Entity

UNON

Case Number(s)

UNDT/NBI/2014/79

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

10 Dec 2014

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

UNDT Statute

- Article 8.1

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2013-UNAT-294