

UNDT/2015/082, Tavora-Jainchill

UNAT Held or UNDT Pronouncements

The Tribunal rejected the application as being not receivable *ratione materiae*.

Decision Contested or Judgment/Order Appealed

The Applicant contested “the refusal of the Respondent to provide facilities, including intranet access via, iSeek, to [her] to carry out her official functions while according such facilities to persons who are not properly designated [United Nations Staff Union (“UNSU”)] officials”.

Legal Principle(s)

Right to access to iSeek for UNSU officials. The right to have access to iSeek is a derivative right only of the staff member(s) duly designated or elected by the Staff Council, Staff Committee or corresponding staff representative body to perform representational functions and not of any staff member. UNSU Arbitration Committee decisions/rulings are final. The Arbitration Committee’s decisions/rulings are final (irrevocable), since it is the unique body with the competence to review alleged violations of the UNSU Statute and Regulations made by the elected UNSU officials and decide on sanctions if warranted. As results from secs. 8.2.5 and 8.2.6 of the UNSU Regulations, only the decision(s) to impose sanction(s) on an elected UNSU official can be reviewed, but the application for a final review is to be filed only by the individual being sanctioned and is to be considered exclusively by the Arbitration Committee. UNDT has no jurisdiction over UNSU Arbitration Committee decisions/rulings. The Applicant is seeking a judicial decision to confirm her position that the elections are not valid and that she has the right to continue to publish UNSU communications on iSeek. Any judicial determination on the application and relief requested result in the Tribunal adjudicating on the Applicant’s right to continue her official function as President of UNSU after 17 December 2013, which

will represent a direct determination of the term of office of the Council under arts. 4.4 and 4.5 of the UNSU Regulations. This matter is directly related to the validity of the December 2013 elections and its outcome for the leadership and 45th Staff Council. The competence to rule on any dispute related to this matter belongs exclusively to the Arbitration Committee, and the Dispute Tribunal has no jurisdiction under art. 2.1(a) of its Statute to substitute, review and/or enforce any of the Arbitration Committee's decisions/rulings, including the ones on contested electoral issues.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Tavora-Jainchill

Entity

DESA

Case Number(s)

UNDT/NY/2014/9

Tribunal

UNDT

Registry

New York

Date of Judgement

10 Sep 2015

Duty Judge

Judge Greceanu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/293

Staff Regulations

- Regulation 8.1

Staff Rules

- Rule 8.1

UNDT Statute

UNAT Statute

- Article 2.1(a)