

UNDT/2015/083, 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 “[t]he refusal of the Respondent to convene a Joint Negotiating Committee (“JNC”) meeting in order to discuss the flexible workspace proposal, a matter of staff welfare and conditions of work requiring staff-management consultations with [UNSU]”.

Legal Principle(s)

The right to request a JNC meeting. The right to request a JNC meeting in order to discuss a matter of staff welfare and conditions of work is a derivative right of the elected UNSU President. 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. In accordance with sec. 8.2.5 and 8.2.6 of the UNSU Regulations, only decision(s) to impose sanction(s) on an elected UNSU official can be reviewed, but an 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 December 2013 elections are not valid and that she has the right to call a meeting of the JNC at United Nations Headquarters. Any judicial determination on the application and the relief requested would result in the Tribunal adjudicating on a contested electoral issue over which it does not have jurisdiction with the effect of the Tribunal deciding on both the Applicant’s right to continue her official function as President of UNSU and the right

of the following three highest ranking officials after the UNSU President to continue their mandates after 17 December 2013, which will represent a direct determination on the validity of the December 2013 elections and its outcome for the leadership and the 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 competence 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/2015/5

Tribunal

UNDT

Registry

New York

Date of Judgement

10 Sep 2015

Duty Judge

Judge Greceanu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/293

Secretary-General's bulletins

- ST/SGB/172

Staff Regulations

- Regulation 8.1
- Regulation 8.2

UNDT Statute

UNAT Statute

- Article 2.1(a)