

UNDT/2016/028, El-Kholy

UNAT Held or UNDT Pronouncements

Scope of application: It is an essential and inherent part of the duties of a Judge to clarify, interpret and comprehend what the claim is to identify what is in fact being contested. Time limits (receivability *ratione materiae*): Time limits do not begin to run anew simply because and when an Applicant is provided with a reasonable belief that there are grounds to request management evaluation of a decision that was notified at an earlier stage. Administrative decision (receivability *ratione materiae*): In case of post abolition, the decision to (re)advertise the post is not an administrative decision. It is one of general application and does not have direct legal consequences which did not already result from the abolishment decision.

Decision Contested or Judgment/Order Appealed

The Applicant appealed “the decision to reinstate the abolished post of Director, Oslo Governance Centre (“OGC”), and advertise it as a vacancy after having removed and replaced [her] on the pretext of reorganization”. She had been informed on 20 February 2014 that the post of Director, OGC, which she encumbered at the time, was going to be abolished as of 31 March 2014. A post of Director, OGC, was opened on 7 November 2014, and the Applicant filed a request for management evaluation of the decision to reinstate “her” post. The Tribunal found that although required and given the opportunity to do so, the Applicant failed to clarify the decision she was contesting. It found the application irreceivable, *ratione materiae*, with respect to the decision to abolish her post, and with respect to the advertisement of the (new) post of Director. Finally, it found the application to be irreceivable *ratione temporis* with respect to the decision to replace the Applicant by an OIC.

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

El-Kholy

Entity

UNDP

Case Number(s)

UNDT/GVA/2015/125

Tribunal

UNDT

Registry

Geneva

Date of Judgement

13 Apr 2016

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Administrative decision

Implied administrative decision

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Temporal (ratione temporis)

Applicable Law

Staff Rules

- Rule 11.2(c)

UNDT Statute

- Article 8.1(b)
- Article 8.1(d)(i)
- Article 8.3

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2012-UNAT-238

2012-UNAT-260

2014-UNAT-402

2013-UNAT-304