

UNDT/2020/078, Kebede

UNAT Held or UNDT Pronouncements

The Tribunal found that the contested decision in this case was clearly not based on direct organisational authority and it concerned an area protected from employer interference, the internal affairs of a Staff Union. It did not produce a sufficiently direct legal consequence to the legal order of the Applicant as a staff member.

Decision Contested or Judgment/Order Appealed

On 20 December 2019, the Applicant filed an application contesting what he described as the United Nations Economic Commission for Africa's ("ECA") decision not to intervene in his case for compensation for additional financial tasks undertaken from October 2007 to February 2017 as part of his functions as Team Assistant, Office of the Staff Union.

Legal Principle(s)

The Tribunal's jurisdiction over administrative decisions is derived from art. 2.1 of its Statute which provides that the Tribunal shall be competent to hear and pass judgment on an application filed by an individual against the Secretary-General to appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. In the Tribunal's jurisprudence, applications which do not challenge appealable administrative decisions are not receivable *ratione materiae*. A contestable administrative decision is one which produces a sufficiently direct legal consequence to the legal order of the applicant as a staff member. It must be based on direct organisational authority, and must not concern an area protected from employer interference. It must constitute a unilateral decision taken by the Administration in a precise individual case which produces direct legal consequences to the legal order. An application in which an applicant contests the Secretary-General's refusal to conduct an investigation into irregularities surrounding the United Nations Staff Union elections was held not to have been within the jurisdiction of the UNDT because Staff Unions are independent in their operations, and so, the Secretary-General does not have jurisdiction to review or supervise their internal affairs.

Outcome

Dismissed as not receivable

Outcome Extra Text

The Tribunal held that it had no jurisdiction over the application and rejected it.

Full judgment

[Full judgment](#)

Applicants/Appellants

Kebede

Entity

ECA

Case Number(s)

UNDT/NBI/2019/166

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

28 May 2020

Duty Judge

Judge Tibulya

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

UNDT Statute

- Article 2.1

Related Judgments and Orders

2021-UNAT-1101