

UNDT/2021/028, CHERNOV

UNAT Held or UNDT Pronouncements

The decision to change the Applicant's reporting line is moot because the Administration amended that decision. The contents of the email in question do not produce any direct legal consequences affecting the Applicant's terms and conditions of appointment, since the email only announces future anticipated revisions of the terms of references. The record confirms that there was a change to the Applicant's reporting line. The change to the designation of the Applicant's FRO and SRO are contestable administrative decisions. The contested change to the Applicant's reporting officers falls under the Tribunal's jurisdiction and is a reviewable administrative decision. The second contested decision is therefore receivable. The organizational structure of Movement Control Section does not communicate an administrative decision. The organizational structure carries no direct legal consequences to the Applicant's terms and conditions of service. The Dispute Tribunal has no jurisdiction to hear appeals against decisions of indirect impact or which may potentially affect a staff member in the future. This part of his application is therefore not receivable under art. 8.1(c) of the Tribunal's statute and staff rule 11.2(a).

Decision Contested or Judgment/Order Appealed

Several changes in the Applicant's reporting line

Legal Principle(s)

A statutory burden is placed upon an applicant to establish the administrative decision in issue. Such a burden cannot be met where the applicant fails to identify an administrative decision capable of being reviewed. Moreover, an administrative decision must be such that its date is based on objective elements that both parties (Administration and staff member) can accurately determine. The assignment of a Second Reporting Officer, who plays a significant role in a staff member's performance appraisal – the legal consequences of which are obvious – does affect the terms and conditions of the Applicant's appointment. The same rationale would apply to the designation of an FRO who also plays a primary role in a staff member's performance appraisal. A judicial decision will be moot if any remedy issued would have no concrete effect because it would be purely academic or events subsequent to joining issue have deprived the proposed resolution of the dispute of practical significance

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

CHERNOV

Entity

DOS

Case Number(s)

UNDT/NY/2020/043

Tribunal

UNDT

Registry

New York

Date of Judgement

24 Mar 2021

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Performance management

Applicable Law

Staff Rules

- Rule 11.2(a)