

UNDT/2021/139, Mugo

UNAT Held or UNDT Pronouncements

The Applicant cannot claim that the Administration had initiated a disciplinary process against her. The Applicant had no right to force the Administration to complete a disciplinary process against her. The Administration decided to suspend the consideration of initiating a disciplinary process in relation to the Applicant should she be employed with the Organization in the future. Therefore, as in Kennes, the Applicant's due process rights have not been violated. The note placed in the Applicant's Official Status File is merely informative in nature and does therefore have no impact on the Applicant's terms of employment.

Decision Contested or Judgment/Order Appealed

The Administration's decisions to suspend the consideration of the Applicant's disciplinary process until such time the Applicant return to the employment of the Organization, following her retirement.

Legal Principle(s)

To be capable of appeal, an administrative decision must produce direct legal consequences affecting a staff member's conditions of employment. The Administration's decision not to complete a disciplinary process against a staff member and instead resume it should the staff member become a staff member again did not constitute an appealable administrative decision under art. 2.1 of the Dispute Tribunal's Statute. The Administration has no duty to proceed with, and lacks the capacity to conduct, a disciplinary measure once a staff member has left the Organization, as its authority to complete a disciplinary process is predicated on the fact that a staff member has an ongoing employment relationship with the Organization. The key characteristics of an administrative decision subject to judicial review is that the decision must "produce direct legal consequences" affecting a

staff member's terms or conditions of appointment, not a "future injury". A note placed in a staff member's Official Status File recording the Administration's decision not to complete a disciplinary process was not reviewable, because it did not produce direct legal consequences in the staff member's employment rights because it was merely informative in nature.

Outcome

Dismissed as not receivable

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Mugo

Entity

MONUSCO

Case Number(s)

UNDT/NY/2021/054/T

Tribunal

UNDT

Registry

New York

Date of Judgement

23 Nov 2021

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Investigation

Applicable Law

Administrative Instructions

- ST/AI/2017/1

Staff Rules

- Rule 10.3(a)

UNDT Statute

- Article 2.1

Related Judgments and Orders

2020-UNAT-1073