

# 2014-UNAT-404, Bauza Mercere

## UNAT Held or UNDT Pronouncements

UNAT held that there was no reason to interfere with UNDT's finding that the Appellant had not established the existence of a decision capable of giving UNDT jurisdiction to embark upon a consideration of his complaints. UNAT held that UNDT had correctly determined that the application was not receivable *ratione materiae*. UNAT held that UNDT should not have embarked on a consideration of substantive issues, such as staff consultations and discrimination arguments, but instead should have confined itself to the issue of receivability. UNAT dismissed the appeal with regard to the receivability. UNAT declared that UNDT's consideration of the staff consultations and discrimination arguments was without legal authority.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to force him to improperly use the electronic Flex Time system for time and attendance recording. UNDT issued a judgment on receivability, concluding that the application was not receivable, *ratione materiae*, as the Applicant had not provided UNDT with any persuasive arguments that the implementation of the Flex Time System infringed on either his contract of employment or his terms of appointment. UNDT, citing Allen (judgment No. UNDT/2010/009), determined that any requirement regarding staff consultation was met as each of the parties had had the opportunity to make the other party aware of its views. UNDT also rejected the Applicant's argument of discrimination, finding the fact that a practice may not be required by other departments did not render the implementation of such a system within the Department of General Assembly and Conference Management discriminatory.

## Legal Principle(s)

While it is not sufficient for an applicant merely to establish that an administrative decision was taken, for him or her to have standing before UNDT, it is also not sufficient for a Respondent to state that the administrative decision was of general rather than an individual application for it to not be receivable.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Bauza Mercere

## Entity

DGACM

## Case Number(s)

2013-454

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

2 Apr 2014

## President Judge

Judge Faherty

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Discrimination and other improper motives

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

## Applicable Law

Staff Rules

- Rule 1.5(a)

UNDT Statute

- Article 2.2

## Related Judgments and Orders

UNDT/2013/011

2010-UNAT-058