

# UNDT/2023/092, Ortega Andres

## UNAT Held or UNDT Pronouncements

In the present case, the Tribunal found the application not receivable *ratione personae* because at the date of filing it, the Applicant was not a staff member, and the contested decision did not breach the terms of his former appointment with UNOPS.

Furthermore, UNOPS and UNGSC are two different entities of the UN system. While the Applicant was a former staff member of UNOPS, he had no employment relationship with UNGSC. He was an external candidate with no standing to challenge the decision not to select him for the contested position with UNGSC. The Applicant acknowledged that “there exists no substantive relationship between UNOPS and the job offer at UNGSC for [the contested position]”. However, contrary to his assertion, there was never a “job offer” that could possibly give rise to an argument of an employment relationship with UNGSC so as to confer jurisdiction over his claim.

Under the circumstances and considering that the application is not receivable *ratione personae*, there was no need for the Tribunal to assess any other ground of receivability. The Tribunal therefore dismissed the application.

## Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of the United Nations Office for Project Services (“UNOPS”), contests the decision not to select him for the position of Senior Field Security Assistant, at the G-7 level, at the United Nations Global Service Centre (“UNGSC”) in Valencia, Spain (“the contested position”).

## Legal Principle(s)

The UNDT is competent to review its own competence or jurisdiction in accordance with Article 2(6) of its Statute when determining the receivability of an application (see Christensen 2013-UNAT-335 para. 20).

Before a person may be regarded as a former staff member in terms of Article 3, there must be a sufficient nexus between them and the contested decision. A sufficient nexus exists when the challenged decision has a bearing on an applicant’s former status as a staff member, specifically when it affects his or her prior contractual rights (see Hasan 2022 UNAT-1287 para. 40)

## Outcome

Appeal dismissed on receivability

Full judgment

[Full judgment](#)

Applicants/Appellants

Ortega Andres

Entity

UNOPS

Case Number(s)

UNDT/GVA/2022/023

Tribunal

UNDT

Registry

Geneva

Date of Judgement

30 Aug 2023

Duty Judge

Judge Tibulya

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Selection decision

Staff selection (non-selection/non-promotion)

Applicable Law

UNDT RoP

- Article 19
- Article 9

UNDT Statute

- Article 2.1
- Article 3.1(b)

Related Judgments and Orders

2013-UNAT-335

2011-UNAT-171

2017-UNAT-727

2022-UNAT-1287