

# **UNDT/2022/050, Annette**

## **UNAT Held or UNDT Pronouncements**

The Tribunal made the following observations: (a) staff rule 8.1(d) governs staff relations and specifically empowers polling officers to conduct elections of staff representatives based on applicable rules and regulations on staff elections, (b) staff rule 8.1(d) makes no reference whatsoever to any staff member's individual contractual right, and (c) if there was any dispute concerning staff rule 8.1(d) on secrecy and fairness of the vote, the provision does not regulate modalities for resolving that dispute.

Staff rule 8.1(d) and staff regulation 8.1(b) do not apply to any individual staff member but rather they govern staff relations. They do not have direct impact on individual staff member's contractual rights. The provisions regulate how staff members shall organise themselves and be equitably represented through fair elections following electoral regulations. The provisions do not deal with the specific and technical details of conducting elections rather, they leave that to the staff representative bodies through polling officers who shall be guided by electoral regulations.

The Tribunal held that the impugned decision failed to identify any obligation within the provision that the Administration abdicated from because the Applicant did not claim to be a polling officer to whom staff rule 8.1(d) applies.

The Applicant did not identify a specific administrative decision capable of being reviewed which had a direct and adverse impact on her employment contract.

The Tribunal determined that the Applicant had failed to demonstrate that staff rule 8.1 (d) as read with staff regulation 8.1(b) formed part of her terms of appointment and contract of employment or that they regulated her individual contractual relationship with the Secretary-General. Consequently, the Tribunal found that the decision contested failed the test of a reviewable administrative decision, it had no direct impact and produced no adverse legal consequences on the Applicant's terms of contract and appointment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision by the Office of Human Resources (“OHR”) to not grant her and her running team access to the staffing list and corresponding e-mail addresses of field-based staff, or any comparable mechanism, for communication and campaigning purposes in connection with the 2021 United Nations Field Staff Union (“UNFCU”) elections.

## Legal Principle(s)

To be reviewable, an Applicant must demonstrate that the decision: (a) is unilaterally taken by the administration in a precise individual case; (b) produces direct legal consequences; (c) has direct impact on his or her terms of appointment; (d) its nature is such that it can be appealable; (e) is taken based on a legal framework that is reviewable; and (f) produces adverse legal consequences on his or her individual terms and conditions of appointment.

## Outcome

Dismissed as not receivable

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Annette

## Entity

MINUSMA

## Case Number(s)

UNDT/NBI/2021/107

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

25 May 2022

## Duty Judge

Judge Sikwese

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Definition

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

## Applicable Law

Staff Regulations

- Regulation 8.1

Staff Rules

- Rule 8.1

UNAT Statute

- Article 2.1(a)

UNDT Statute

## Related Judgments and Orders

2017-UNAT-765

2014-UNAT-481

2010-UNAT-058

2014-UNAT-404

2015-UNAT-526

2014-UNAT-419

2020-UNAT-981