

UNDT/2023/052, Lago

UNAT Held or UNDT Pronouncements

The Tribunal must ensure that there is an administrative decision that is alleged to be in non-compliance with the staff member's terms of appointment or his or her contract of employment, as provided for in art. 2.1(a) of the Tribunal's Statute. Such decision must be unilaterally taken by the Administration, be directed to the staff member, and have direct legal consequences for the staff member.

Decision Contested or Judgment/Order Appealed

The Applicant contested the "[i]mplicit and continued denial by [the United Nations Development Programme ("UNDP")] to conduct an occupational health evaluation after the reported and objective exposure to toxic contaminants in the workplace".

Legal Principle(s)

An applicant before the Tribunal is required to clearly identify the administrative decision which is contested and to provide evidence with sufficient particularity of any specific instance in which he or she made a request and the Administration had denied or ignored such a request. An applicant also has the statutory burden to establish that the contested administrative decision was in non-compliance with the terms of his or her appointment or contract of employment. Such a burden cannot be met where the applicant fails to identify an administrative decision capable of being reviewed, that is, a specific decision which has a direct and adverse impact on his or her contractual rights.

Outcome

Dismissed as not receivable

Outcome Extra Text

In the case at bar, while the application contains general references to requests made to officials, the Applicant has not provided any evidence that he made a specific request for an occupational health evaluation that was addressed to a named official on a specified date. The Applicant's averments that he repeatedly raised the matter over a four-year period are insufficient. He has not precisely identified any occasion when he raised the matter in his individual capacity as a staff member, with whom, where, and to what effect. He has also not shown that the Administration failed to take action on any such request in the 60 days leading up to 23 November 2021 when he filed the second request for management evaluation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Lago

Entity

UNDP

Case Number(s)

UNDT/NY/2022/017

Tribunal

UNDT

Registry

New York

Date of Judgement

12 Jun 2023

Duty Judge

Judge Hunter Jr.

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Management Evaluation

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

UNDT Statute

- Article 2.1

ITLOS Staff Regulations and Rules

- Rule 11.2(a)(i)

Related Judgments and Orders

2019-UNAT-970

2019-UNAT-969

2018-UNAT-821

2010-UNAT-049

2020-UNAT-1004

2017-UNAT-716

2015-UNAT-566

2010-UNAT-030