

UNDT/2023/131, Sahyoun

UNAT Held or UNDT Pronouncements

The application was filed without being preceded by a timely filing of a request for management evaluation and the subject matter complained of does not include an administrative decision. The Applicant did not seek management evaluation of the final non-selection decision, which was required to contest it. She only requested management evaluation of the decision not to invite her to a competency-based interview.

The Applicant seeks to contest a preliminary step in a selection process, which can only be challenged in the context of a final selection decision. It is a premature contestation of an administrative decision.

Consequently, the Dispute Tribunal lacks jurisdiction to adjudicate claims concerning the Applicant's non-selection.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to not shortlist her for the competency-based interview in the selection process for Job Opening 199994.

Legal Principle(s)

The Dispute Tribunal is required, *ex proprio motu*, to satisfy itself that an application is receivable under art. 8 of its Statute.

The issue of receivability may be adjudicated even without serving the application on the Respondent for a reply, even if the parties did not raise it.

The Dispute Tribunal assumes jurisdiction to review an administrative decision only if it is a final decision.

Only a final decision taken after the selection exercise constitutes an administrative decision under art. 2.1(a) of the Tribunal's Statute. The Dispute Tribunal lacks jurisdiction to review a challenge to a preparatory step in a selection process.

A selection process is composed of administrative processes leading to an administrative decision. Such processes are not final decisions, but steps that prepare the way for them. They are preliminary and can only be challenged when the Administration makes a final decision that affects the legal rights of a party.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Sahyoun

Entity

ESCWA

Case Number(s)

UNDT/NBI/2023/061

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

29 Nov 2023

Duty Judge

Judge Waktolla

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Definition

Management Evaluation

Staff selection (non-selection/non-promotion)

Administrative decision

Jurisdiction / receivability (UNDT or first instance)

Applicable Law

ISA Staff Regulations and Rules

- Rule 11.2(a)

UNDT Statute

- Article 8.1(a)

UNAT Statute

- Article 8.1(c)

Related Judgments and Orders

2011-UNAT-152
2019-UNAT-928
2013-UNAT-335
2013-UNAT-313
UNDT/2010/204
2014-UNAT-481
2013-UNAT-380