

UNDT/2024/026, Baraza

UNAT Held or UNDT Pronouncements

The Tribunal recalled that under art. 2.1(a) of its Statute, it is competent to hear and pass judgment on an appeal from “an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment”. The Appeals Tribunal explained that this provision establishes a “jurisdictional precondition of an immediate, direct, and adverse impact” of the challenged administrative decision upon the staff member.

Having examined the record, the Tribunal concluded that, in this case, there was no showing of such adverse impact on the Applicant. Accordingly, in the absence of any showing of immediate, direct, and adverse impact from the decision to close the investigation, the Tribunal held that it lacked jurisdiction to hear the case and, thus, the application was dismissed as not receivable.

The Tribunal also found that even if the application had been receivable, it lacked merit because the contested decision was lawful.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision of the Executive Director, United Nations Environment Programme to close the complaint she filed with the Office of Internal Oversight Services alleging harassment and abuse of authority by her former Second Reporting Officer.

Legal Principle(s)

According to the settled jurisprudence of the Tribunal, the denial of an investigation by the Administration is not an “administrative decision” subject to judicial review unless the denial is “shown to adversely affect the rights or expectations of the staff

member and have a direct legal effect”.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Baraza

Entity

UNEP

Case Number(s)

UNDT/NBI/2023/039

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 Apr 2024

Duty Judge

Judge Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Reasons

Administrative decision

Applicable Law

UNAT Statute

- Article 2.1(a)

UNDT Statute

Related Judgments and Orders

2023-UNAT-1313

2010-UNAT-100

2017-UNAT-733

2015-UNAT-505