

Introduction

1. After the present cases were remanded back to the Dispute Tribunal by the Appeals Tribunal, the Applicants filed their applications with this Tribunal, which were served on the Respondent, who filed his reply.

Consideration

2. Having reviewed the parties' submissions, the Tribunal considers that it is necessary that the Respondent make an additional submission addressing the issues developed below.

3.

5. It is the considered view of the Tribunal that the definition provided in *Andronov* cannot be read in isolation from the rest of that judgment, and recalls that before providing the definition of an administrative decision, the former Administrative Tribunal of the United Nations was cautious to state the following:

The Tribunal believes that the legal and judicial system of the United Nations must be interpreted as a comprehensive system, without *acuna* and failures, so that the final objective, which is the protection of staff members against alleged non-observance of their contracts of employment, is guaranteed. The Tribunal furthermore finds that the Administration has to act fairly vis-à-vis its employees, their procedural rights and legal protection, and to do everything in its power to make sure that every employee gets full legal and judicial protection.

6. The Appeals Tribunal has further held in *Andat A way* 2010-UNAT-058 that:

What constitutes an administrative decision will depend on the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision.

7. The Appeals Tribunal further held in *Ped ce* 2015-UNAT-555 that:

Notwithstanding the foregoing, it is an undisputed principle of international labour law and indeed our own jurisprudence that where a decision of general application negatively affects the terms of appointment or contract of employment of a staff member, such decision shall be treated as an "administrative decision" falling within the scope of article 2(1) of the Statute of the Dispute Tribunal and a staff member who is adversely affected is entitled to contest that decision.

8. Under the definition applied in *Andronov*, it may thus appear that administrative acts of regulatory nature (such as Secretary-General's bulletins or administrative instructions) have to be differentiated from administrative decisions that, although formulated in form of a general order, are nevertheless directed at a defined group of people or one definable on the basis of general characteristics, and which have direct legal consequences for each individual of that group.

Cases Nos. UNDT/GVA/2017/152/R1,
153/R1, 156/R1, and 161/R1
UNDT/GVA/2015/095/R1
and 096/R1

Order No. 115 (GVA/2017)

17. Further, in order to streamline proceedings in these cases, Counsel for the Respondent are asked to designate lead counsel, in consultation with Counsel acting on behalf of the Respondent for other agencies (cf. Order No. 114 (GVA/2017), para. 16).

IT IS ORDERED THAT:

18. By Friday, 9 June 2017, the Respondent file comments and information on the issues raised under paras. 9 to 15 above.

19. By Monday, 6 June 2017, the Applicants shall inform the Tribunal whether they were successful in retaining OSLA assistance. In the affirmative, the Applicants are given four weeks as from the date of getting confirmation of such assistance or as of 6 June 2017, whichever is later, to file comments on the Respondent's submission under para. 18 above. Otherwise, the Applicants are given four weeks from the filing of the Respondent's submission under para. 18 above, or from the date they were informed that OSLA would not provide them assistance, whichever is later, to file their comments thereon.

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