

UNDT/2010/001, Abboud

UNAT Held or UNDT Pronouncements

In this case the initial inquiry was inadequate and affected by bias. Outcome: Applicant awarded USD20,000 for breach of contractual right. Parties directed to make submissions as to whether ST/AI/371 is still operative or has been implicitly appealed by ST/SGB/2009/7. Further hearing to decide as to whether USG's conduct should be referred to the SG for possible action to enforce accountability pursuant to art 10.8 of the UNDT Statute.

Decision Contested or Judgment/Order Appealed

The applicant was interviewed for a position by an interview panel, but complained to the USG of the Department about the conduct of one of the panelists, namely the USG's Special Assistant (SA). Section 2 of ST/AI/371 required the USG to undertake an initial inquiry to determine whether there was "reason to believe" that the SA had "engaged in an unsatisfactory conduct for which a disciplinary measure may be imposed". The USG obtained certain limited information and decided that a preliminary investigation was not called for. It is this decision which the applicant appealed.

Legal Principle(s)

Staff members have a contractual right to have their request for an investigation fairly and competently considered. The initial inquiry as to whether there is reason to believe unsatisfactory conduct occurred must be sufficient to enable the decision to be rationally made. The personal opinion of the decision-maker that unsatisfactory conduct did or did not occur is irrelevant: the question is one of objective judgment. If there is such a reason to believe, there is not discretion to decline to undertake a preliminary question. The decision-maker must consider all relevant and disregard all irrelevant matters, free from bias and without any error of

significant fact.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Abboud

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/055/JAB/2008/104

Tribunal

UNDT

Registry

New York

Date of Judgement

6 Jan 2010

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Pecuniary (material) damages

Investigation

Due process

Applicable Law

Secretary-General's bulletins

UNDT Statute

UNRWA DT Statute

- Article 10.8