

UNDT/2010/205, Adorna

UNAT Held or UNDT Pronouncements

UNDT reiterated that, as it had held in Adorna UNDT/2009/012, the Applicant's claims concerning the propriety of the letter of reprimand were not receivable and this case was limited to the following contested decisions: (i) the refusal to allow the Applicant access to the investigation report; (ii) the refusal to pay the Applicant's legal expenses; and (iii) the refusal to issue internal and public announcements acknowledging his exoneration. UNDT found that the Applicant's request for the investigation report was reasonable and that the obligations of good faith and fair dealing required that the report should have been made available to the Applicant in a timely manner after he requested it in November 2007. UNDT found that the Organisation should have properly exercised its discretion and should have provided the report to the Applicant. UNDT found that the non-disclosure of the report contributed to the Applicant's emotional distress and anxiety, for which he should be compensated in the amount of USD15,000. All other pleas, including with respect to costs and issuance of further announcements concerning his case, were rejected.

Decision Contested or Judgment/Order Appealed

Following an investigation in which he was cleared of charges of sexual harassment and sexual assault, the Applicant, a former senior official with the India Office of the United Nations Children's Fund ("UNICEF"), received a letter of reprimand in January 2007 for "inappropriate behavior". Approximately ten months later the Applicant requested disclosure of the investigation report, issuance of a public statement declaring his innocence, and compensation for his legal defence against the proceedings brought against him by the complainant in domestic courts. When these requests were refused, the Applicant filed an appeal requesting compensation for due process violations, legal costs, and a statement of exoneration by UNICEF.

Legal Principle(s)

Compensation for emotional distress: If the Respondent's improper actions contributed to the Applicant's emotional distress and anxiety, the resultant damage warrants compensation.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Adorna

Entity

UNICEF

Case Number(s)

UNDT/NY/2009/023/JAB/2008/039

Tribunal

UNDT

Registry

New York

Date of Judgement

29 Nov 2010

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Investigation

Applicable Law

Former Staff Rules

- Rule 110.3(b)

UNDT RoP

- Article 30

UNDT Statute

- Article 10.6

Related Judgments and Orders

UNDT/2009/012

UNDT/2009/028

UNDT/2010/009

UNDT/2010/042

UNDT/2010/071

UNDT/2010/097

UNDT/2010/121