

UNDT/2010/207, Klein

UNAT Held or UNDT Pronouncements

The Applicant's challenge of his non-renewal is not receivable as no administrative review of this decision was sought. The Respondent failed to reasonably exercise the discretion to withhold or modify the Investigation Report (and Executive Summary). The parties will be directed to make submissions on appropriate relief.

Decision Contested or Judgment/Order Appealed

Non-renewal of contract and release of the investigation report and executive summary

Legal Principle(s)

Failure to answer claim: If a party is in the exclusive possession of documentation that supports its case and fails to disclose it, then that party should not be able to rely on the failure to advance its own case. Discretion to withhold or modify OIOS reports upon release to Member States: OIOS has an obligation pursuant to both the Organisation's rules and general principles of law to ensure that the reports it prepares are the result of proper investigative procedures, and in light of the fact that it is obliged to release reports pursuant to the General Assembly's resolution, this obligation is even more pertinent, as the harm that may result is amplified. The discretion to withhold or modify a report exists for reasons which include avoiding or minimizing harm in circumstances such as the Applicant's, and must be exercised reasonably.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Klein

Entity

UNMIL

Case Number(s)

UNDT/NY/2009/119

Tribunal

UNDT

Registry

New York

Date of Judgement

30 Nov 2010

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Due process

Investigation

Management Evaluation

Time limit

Non-renewal

Applicable Law

Administrative Instructions

- ST/AI/292

Former Staff Rules

- Rule 104.12(b)

GA Resolutions

- A/RES/59/272

Related Judgments and Orders

UNDT/2009/028

2010-UNAT-061