

# UNDT/2011/069, Morin

## UNAT Held or UNDT Pronouncements

Nature of misconduct charges: Although technically not criminal charges, a misconduct charge may carry overtones of criminal proceedings, where rights attendant to a fair trial attach. Equality of arms: equality of arms may be seen to be an indivisible element of a fair trial, requiring that a fair balance exist between parties involved in litigation. The principle warrants the assurance that each party to a dispute be able to prepare and present his or her case fully and adequately before the court. Outcome: The Tribunal found that the conditions of access proposed by the Respondent would result in a fair outcome which balances the interests of justice, and the Applicant was granted access to the documents he sought, subject to these conditions. The parties had agreed during the course of proceedings that the Applicant would be granted access to the material in a secure setting. However, the Respondent argued that, due to the strictly confidential nature of the material access was being granted to, the Applicant and his Counsel should not be allowed to take any notes made from the review of this material out from the secure room in which the materials was reviewed. The parties agreed that the Tribunal should determine and rule on this issue.

## Decision Contested or Judgment/Order Appealed

The Applicant appealed a decision denying him access to certain information that he contended was needed to prepare an informed and adequate response to allegations of misconduct that were brought against him.

## Legal Principle(s)

Requests for confidentiality: where such a request is made, the underlying premise is that the request is legitimate and made in good faith: that the Organization has a bona fide belief that the information deserves protection by means of a court order

due to its confidentiality and sensitivity.

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Morin

## Entity

UN Secretariat

## Case Number(s)

UNDT/NY/2010/054

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

12 Apr 2011

## Duty Judge

Judge Kaman

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Evidence

Procedure (first instance and UNAT)

Confidentiality

## Applicable Law

Secretary-General's bulletins

- ST/SGB/2007/6

Staff Rules

- Rule 1.2(b)

UNDT RoP

- Article 18.2
- Article 18.4

## Related Judgments and Orders

UNDT/2011/032

UNDT/2010/068

2010-UNAT-030

2010-UNAT-034