

UNDT/2012/057, Osman

UNAT Held or UNDT Pronouncements

Receivability *ratione materiae*: The Tribunal has jurisdiction to review the Administration's actions and omissions following a request for investigation submitted pursuant to ST/SGB/2008/5. Definition of harassment: Disagreements on work performance and other work-related issues are per se not excluded from the definition of harassment, and thus from the scope of ST/SGB/2008/5. Requirements to initiate an investigation and standard in appraising them: Section 5.14 of ST/SGB/2008/5 provides for two general criteria for the purpose of launching a fact-finding investigation: (1) that the formal complaint or report be made in good faith and (2) that there be sufficient grounds to warrant such an investigation. The requirement that there should be "sufficient grounds" to warrant a formal fact-finding investigation may not be too narrowly interpreted. It is possible that the cumulative effect of a series of actions may reveal a pattern of harassment, whereas individual incidents, considered individually, do not indicate so.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the decision to reject his request for an investigation into his allegations of harassment, discriminatory treatment and abuse of authority against his second reporting officer and the latter's supervisor, taken by the Special Representative of the Secretary-General for Iraq and subsequently confirmed by the Assistant Secretary-General for Human Resources Management. The Tribunal ruled that the Special Representative did not err in considering that the Applicant's complaint did not yield sufficient grounds to warrant a fact-finding investigation.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Osman

Entity

UNAMI

Case Number(s)

UNDT/GVA/2011/005

Tribunal

UNDT

Registry

Geneva

Date of Judgement

19 Apr 2012

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Sexual harassment

Investigation

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Former Staff Rules

- Rule 105.1(b)(iii)
- Rule 106.2(c)

Secretary-General's bulletins

- ST/SGB/2008/5

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2010-UNAT-099

UNDT/2011/050