

UNDT/2012/067, Mokbel

UNAT Held or UNDT Pronouncements

.Outcome: The Respondent is to pay to the Applicant USD10,000 in compensation for emotional harm.

Decision Contested or Judgment/Order Appealed

In the Judgment on liability (UNDT/2012/061), the Respondent was found to have failed to compensate the Applicant for having incorrectly imposed disciplinary charges against him, including for bribery, and for the lengthy disciplinary process of three years.

Legal Principle(s)

Evidence of harm and not punitive / exemplary damages. Before the Tribunal awards compensation for emotional harm, there must be evidence of injury or damage. Furthermore, such compensation may not amount to an award of punitive or exemplary damages designed to punish the Organization and deter future wrongdoing. Limitations to compensation. Whilst it is the case that the manner in which the investigation and the disciplinary proceedings were conducted did cause the Applicant distress and anxiety, it is the degree to which such emotional harm could be attributed to the conduct of the Respondent that has to be considered. Calculating the sum. It is difficult to arrive at a precise sum to reflect the extent of damage suffered by a particular staff member in a given set of circumstances. This is not an issue which lends itself to scientific quantification or certainty. The Tribunal has to use its judgment to arrive at an assessment, which is fair and proper and does not diminish confidence in the ability of the system to provide, in appropriate cases, compensation that is neither paltry nor excessive. Above all, the award has to be truly compensatory. The approach that the Tribunal has adopted is to try and categorise the harm suffered by the Applicant in terms of a scale of severity. The

Tribunal has first to assess whether the Applicant was minimally, moderately, or extremely distressed by the manner in which he was treated. It is only after such a finding that the Tribunal may arrive at a sensible and reasoned assessment

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Mokbel

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2010/068

Tribunal

UNDT

Registry

New York

Date of Judgement

9 May 2012

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Evidence of harm

Non-pecuniary (moral) damages

Evidence

Applicable Law

UNDT Statute

- Article 10.5
- Article 10.7

Related Judgments and Orders

UNDT/2012/061

2010-UNAT-042

2010-UNAT-095