

# **UNDT/2012/092, Wasserstrom**

## **UNAT Held or UNDT Pronouncements**

The UNDT found that, given the burden of proof on the Administration to establish by “clear and convincing evidence” that there is no retaliation pursuant to sec. 2.2 of ST/SGB/2005/21, and given some of the unresolved questions arising from the OIOS investigation report and its annexes, any reasonable reviewer would have examined the annexes, which the Ethics Office did not. Nor did the Ethics Office sent the report back to OIOS for further investigations and/or clarification. Since the Ethics Office did neither, the Respondent was found liable for the Ethics Office’s failures and/or omissions.

## **Decision Contested or Judgment/Order Appealed**

The Applicant appealed the Ethics Office’s determination that he had not been retaliated against.

## **Legal Principle(s)**

The judicial review of a retaliation decision of the Ethics Office: The Tribunal held that the duty of the Ethics Office is not simply to rubberstamp an investigation report and recommendations by OIOS. The Tribunal is to consider whether any reasonable reviewer properly directing her/himself to the questions of fact and law of the investigation report and recommendations would have seen it as part of their duty to examine the full report, including its annexes, and/or requested OIOS to make further enquires.

## **Outcome**

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Wasserstrom

## Entity

UNMIK

## Case Number(s)

UNDT/NY/2009/044/JAB

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

21 Jun 2012

## Duty Judge

Judge Meeran

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Burden of proof

Ethics office

Investigation

Standard of review (judicial)

## Applicable Law

Secretary-General's bulletins

- ST/SGB/2005/21