

UNDT/2012/095, Gehr

UNAT Held or UNDT Pronouncements

Obligation to take action under ST/SGB/2008/5: The Administration's obligation to take prompt and concrete action under section 5.3 of ST/SGB/2008/5 is not limited to formal complaints or reports but also extends to "allegations" of prohibited conduct. Scope of application of ST/SGB/2008/5: Comments made in the context of a staff member's performance appraisal could in some circumstances fall under ST/SGB/2008/5. For example, harsh criticism unsupported by examples or the use of offensive language could constitute improper conduct that might reasonably be expected or be perceived to cause offence or humiliation.

Decision Contested or Judgment/Order Appealed

On 31 January, 1 and 8 December 2010, the Applicant, a former staff member of UNODC, wrote to the Administration, claiming that he was the victim of harassment and abuse of authority. The Administration responded in March 2011, asking him to resubmit his allegations in accordance with section 5.13 of ST/SGB/2008/5. Before the Tribunal, the Applicant challenges the decision not to take action in response to his reports of prohibited conduct. The Tribunal finds that, irrespective of whether or not the allegations made by the Applicant constituted "formal reports" of prohibited conduct within the meaning of ST/SGB/2008/5, the Administration had a duty to take "prompt and concrete action" in response to these allegations. It further considers that the Administration's delay in responding to the Applicant is unreasonable and warrants compensation. However, the Tribunal also finds that, in the form in which they were submitted, the Applicant's allegations did not provide sufficient grounds to warrant a formal fact-finding investigation.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Judgment in favour of applicant in part (only financial compensation ordered)

Full judgment

[Full judgment](#)

Applicants/Appellants

Gehr

Entity

UNODC

Case Number(s)

UNDT/GVA/2011/39

Tribunal

UNDT

Registry

Geneva

Date of Judgement

26 Jun 2012

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Disciplinary matters / misconduct

Abuse of authority

Harassment (non-sexual)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

Related Judgments and Orders

2010-UNAT-099

2011-UNAT-143

2011-UNAT-148

UNDT/2011/050

UNDT/2012/057