

# **UNDT/2012/120, Applicant**

## **UNAT Held or UNDT Pronouncements**

Sub judice: The sub judice rule restricts the publication of prejudicial information relating to proceedings that are current before a court or pending judicial consideration and determination. Publication of prejudicial information about a person will not attract liability for contempt if proceedings involving that person are not yet pending (although a publication in this situation may attract liability on other legal grounds, for example, a defamation action in the domestic courts). Publication of material on matters that are sub judice may result in contempt of court, punishable in many jurisdictions by a monetary fine or imprisonment.

Private disputes: The Tribunal is not empowered to entertain private disputes in which the Organization is not involved as a party. The Applicant had been disciplined based on the allegations made by the Complainant and, at the time of the filing of the motion, was apparently preparing an appeal against that decision. The Applicant contended that the Complainant was acting in breach of the requirements of confidentiality and was in contempt as the matter was sub judice. He also contended that the Tribunal had jurisdiction to issue appropriate orders against the Complainant. The Tribunal found that there were no legal proceedings pending before the Tribunal and no substantive case under consideration by a judge. Thus, there were no matters that were sub judice, the publication of which may give rise to contempt of court. The Tribunal found the motion to be misguided and not properly before it. The Tribunal further found that no administrative decision, whether by action or inaction, had been made by the Secretary-General in relation to the Complainant's alleged conduct. The Tribunal observed that, if the Applicant were to make any separate appeals against actions or omissions of the Organization in relation to the Complainant's conduct, the Applicant would be appealing not the imposition of a disciplinary measure but a separate administrative decision, and would thus be required to first go through the management evaluation process.

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

The Applicant filed an ex parte motion seeking the Tribunal to direct a former United Nations consultant (“Complainant”), who made allegations of sexual harassment against the Applicant, to “cease planting news items in outside publications” about him. The Applicant had been disciplined based on the allegations made by the Complainant and, at the time of the filing of the motion, was apparently preparing an appeal against that decision. The Applicant contended that the Complainant was acting in breach of the requirements of confidentiality and was in contempt as the matter was sub judice. He also contended that the Tribunal had jurisdiction to issue appropriate orders against the Complainant. The Tribunal found that there were no legal proceedings pending before the Tribunal and no substantive case under consideration by a judge. Thus, there were no matters that were sub judice, the publication of which may give rise to contempt of court. The Tribunal found the motion to be misguided and not properly before it. The Tribunal further found that no administrative decision, whether by action or inaction, had been made by the Secretary-General in relation to the Complainant’s alleged conduct. The Tribunal observed that, if the Applicant were to make any separate appeals against actions or omissions of the Organization in relation to the Complainant’s conduct, the Applicant would be appealing not the imposition of a disciplinary measure but a separate administrative decision, and would thus be required to first go through the management evaluation process.

## Legal Principle(s)

N/A Sub judice: The sub judice rule restricts the publication of prejudicial information relating to proceedings that are current before a court or pending judicial consideration and determination. Publication of prejudicial information about a person will not attract liability for contempt if proceedings involving that person are not yet pending (although a publication in this situation may attract liability on other legal grounds, for example, a defamation action in the domestic courts). Publication of material on matters that are sub judice may result in contempt of court, punishable in many jurisdictions by a monetary fine or imprisonment. Private disputes: The Tribunal is not empowered to entertain private disputes in which the Organization is not involved as a party.

## Outcome

Dismissed as not receivable

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Applicant

## Entity

UN

## Case Number(s)

UNDT/NY/2012/065

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

1 Aug 2012

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

## Applicable Law

UNDT Statute

- Article 2.1