

UNDT/2013/013, Cooper

UNAT Held or UNDT Pronouncements

The Applicant had argued that the written reprimand was a veiled disciplinary measure and as such there was no need to request a management evaluation. The Tribunal does not agree as it is for the Tribunal to make a determination as to whether the sanction was a veiled disciplinary measure or not. In view of the preceding, the Tribunal finds and holds that the Applicant's claims contesting the managerial action of a written reprimand are not receivable as they were never submitted to a management evaluation as required under art. 8(1)(c) of the Statute of the Tribunal. As stipulated at para. 5.18(b) of ST/SGB/2008/5, the responsible official shall decide on the type not "types" of managerial action to be taken given the facts of each case. The simple interpretation of this provision which enumerates the various managerial actions available is that only one type which is deemed suitable for the purpose shall be applied. ST/SGB/2008/5 does not provide for the implementation of several different types of managerial action in any particular circumstance. In the present case, the USG/OCHA decided on at least three types of managerial action, that is, the issuance of a written reprimand, mandatory training and a change of functions and responsibilities. This was certainly more of an overkill.

Decision Contested or Judgment/Order Appealed

On 24 January 2011, the Applicant, Head of Office, the Office for the Coordination of Humanitarian Affairs ("OCHA"), Kenya, received from Ms. Valerie Amos, the Under-Secretary-General OCHA ("USG/OCHA"), a written reprimand following an investigation into allegations against her for harassment, abuse of authority and alleged misconduct. On 20 April 2011, she filed an Application in which she contends that the decision to impose the written reprimand was in violation of her right to due process.

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Cooper

Entity

OCHA

Case Number(s)

UNDT/NBI/2011/019

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

29 Jan 2013

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

Staff Regulations

- Regulation 1.1(f)
- Regulation 11.2(b)

Staff Rules

- Rule 10.2(b)(i)

UNDT Statute

- Article 8.1(c)