

UNDT/2013/132, Lubbad

UNAT Held or UNDT Pronouncements

The mention of the Applicant's name in several documents communicated to a number of countries in relation to an ongoing investigation had an impact on the Applicant's professional mobility. Indeed, while on official travel, the Applicant had been stopped in various airports, sometimes for several hours, and had been asked whether he had another passport in his possession. The absence of a response from OIOS over the course of its multi-year investigation was a deliberate act, if not an instance of negligence in the Administration's duty to act within a relatively reasonable time. This failure to respond impacted on the Applicant's professional reputation by leaving him open to suspicion in his professional environment. The decision to open an investigation into forged passports, to remain silent for several years and to mention the Applicant's name in a number of documents related to the investigation and communicated to various countries constituted an administrative decision that had an impact on the Applicant's terms of appointment. UNDT stated that it did not have jurisdiction over matters concerning defamation, as it is bound by the provisions of Article 2 of its statute. UNDT held that the Application was receivable in all respects other than the concept of defamation

Decision Contested or Judgment/Order Appealed

The Applicant contested: 1) the Administration's implicit refusal to take a decision on an investigation by the United Nations Office of Internal Oversight Services (OIOS) into allegations about his involvement in a network of traffickers of forged passports; 2) the Administration's refusal to cease defaming the Applicant despite his repeated objections, and 3) the alleged breach of his right to confidentiality.

Legal Principle(s)

Whether or not the UNDT may review a decision not to undertake an investigation, or to do so in a way that a staff member considers breaches the applicable Regulations and Rules will depend on the following question: Does the contested administrative decision affect the staff member's rights directly and does it fall under the jurisdiction of the UNDT?

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Lubbad

Entity

ESCWA

Case Number(s)

UNDT/NBI/2012/018

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 Oct 2013

Duty Judge

Judge Boolell

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Investigation

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

UNDT Statute

- Article 2.1