

UNDT/2014/123, Staedtler

UNAT Held or UNDT Pronouncements

The Applicant, who had been separated on 31 December 2012, filed a report to OIOS in January 2013 referring to “gross breaches of UN project management and procurement rules and regulations” (part A of the complaint), “mal intended recruitment” (part B of the complaint) and “misconduct of supervisor” (part C of the complaint). He appealed the OIOS decision not to launch an investigation into his report and “not to provide him with the requisite information and to provide misleading information”. The Tribunal found that the application with respect to the decision not to investigate part A was not receivable *ratione materiae*, since it concerned solely the interests of the Organization and potentially rights of accused staff members, but not those of the Applicant. The Tribunal, however, found the decision not to investigate parts B and C capable to affect the Applicant’s terms of appointment, hence the application was receivable in this respect. The Tribunal noted, however, that OIOS decision not to investigate parts B and C constituted a legitimate exercise of OIOS discretion. With respect to the Applicant’s claims that OIOS did not provide him with requisite information and provided him misleading information, the Tribunal found that it could examine them only incidentally when considering the procedural regularity of the decision not to launch an investigation into the Applicant’s report. The Tribunal did not find any procedural flaw.

Decision Contested or Judgment/Order Appealed

The application was one of a series of applications filed by the applicant, some of which had already been disposed of by the Tribunal, with respect to, *inter alia*, the non-renewal of his appointment and his claim for retaliation.

Legal Principle(s)

Receivability *ratione materiae*: The question of whether a decision by OIOS not to launch an investigation into a report is receivable *ratione materiae* depends on the content of the report. If the impact of the investigation would only have been on the Organization or any accused staff members, but not on the Applicant, the application is not receivable. If, on the other hand, the decision is capable to impact the Applicant's rights, since it relates to 'prohibited conduct' based on treatment the Applicant allegedly received during his/her employment with the Organization, the OIOS decision is subject to judicial review. Discretion: OIOS has broad discretion with respect to what issues it will investigate, and the Tribunal is limited to verify the regularity of the procedure followed, to determine whether in exercising its discretion OIOS made a manifest error, or to establish whether the decision was tainted by ulterior motives.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Staedtler

Entity

UN-Habitat

Case Number(s)

UNDT/GVA/2014/51

Tribunal

UNDT

Registry

Geneva

Date of Judgement

13 Oct 2014

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5
- ST/SGB/273

Related Judgments and Orders

2014-UNAT-457

2011-UNAT-130

2010-UNAT-099