

UNDT/2015/060, Nielsen

UNAT Held or UNDT Pronouncements

The UNDT found that with respect to one of them, Mr. Y., no complaint was ever received by OAI, and that, hence, the application before the Tribunal was not receivable on that matter as no contestable administrative decision was ever taken with respect to Mr. Y. With regard to the Applicant's second colleague, Mrs. X., the Tribunal found that an email the Applicant had sent to an UNFPA Human Resources Associate in August 2013 did not meet the formal requirements of a complaint, as it was not addressed to OAI pursuant to UNFPA Policy on Harassment, Sexual Harassment and Abuse of Authority ("the Policy"). With respect to the Applicant's complaint against Mrs. X. sent on 5 June 2014 to OAI, the Tribunal noted that it was untimely as it had been sent almost eight months after the Applicant's placement on Special Leave With Full Pay ("SLWFP") in September 2013, when she stopped being in interaction with Mrs. X, whereas UNFPA Policy provides for a timelimit of six months to file a complaint following the last incident of harassment. The application was therefore rejected in full.

Decision Contested or Judgment/Order Appealed

The Applicant appealed an UNFPA decision, issued by its Office of Audit and Investigation Services ("OAI"), not to review her complaints of alleged misconduct and harassment filed against two of her colleagues.

Legal Principle(s)

Requirements for a formal complaint of harassment in UNFPA: Pursuant to sec. 9.3.1 of UNFPA Policy on Harassment, Sexual Harassment and Abuse of Authority, a formal complaint has to be addressed to OAI within six months from the date of the last incident of harassment, sexual harassment or abuse of authority. Complaints addressed to other institutions do not meet these criteria. Time limits start to run

from the date of the last incident, not from a possible later date of knowledge about the alleged incident. Effects of a SLWFP on time limits: When a staff member is placed on SLWFP, he or she stops being in interaction with his or her colleagues at work on a professional basis as of that date; hence, any complaint has to be filed within six months from that date. The time limit of six months applies to each type of complainant, be it UNFPA Personnel and/or former Personnel.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Nielsen

Entity

UNFPA

Case Number(s)

UNDT/GVA/2014/83

Tribunal

UNDT

Registry

Geneva

Date of Judgement

29 Jun 2015

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Harassment (non-sexual)

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Staff Rules

- Rule 11.2(c)

UNDT Statute

- Article 8.1(d)