

UNDT/2015/062, Nielsen

UNAT Held or UNDT Pronouncements

The UNDT found that the Applicant's complaint against her colleague, which was sent on 22 August 2014 to OAIS, was untimely as it had been sent more than eleven months after the Applicant's placement on Special Leave With Full Pay ("SLWFP") in September 2013, when she stopped being in interaction with said colleague, 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 ("OAIS"), not to review her complaint of alleged misconduct (harassment and authority abuse) against a former Human Resources Assistant in UNFPA.

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 OAIS 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/2015/5

Tribunal

UNDT

Registry

Geneva

Date of Judgement

29 Jun 2016

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)