

UNDT/2017/014, Kuai

UNAT Held or UNDT Pronouncements

The procedure for conducting investigations of allegations of harassment and abuse of authority by staff members of UNICEF is set out in Administrative Instruction CF/EXD/2012-007. The Applicant provided no evidence that the CF/EXD/2012-007 procedures were not complied with in relation to his case. The undisputed evidence before the Tribunal was that UNICEF's independent OIAI discussed the allegations with the Applicant but concluded that it did not merit a comprehensive review and was not a well-founded allegation of prohibited conduct. It proposed alternative recourse, which the Applicant pursued. The Tribunal further noted that the Applicant and UNICEF subsequently concluded a settlement agreement in which the Applicant agreed to withdraw all his complaints related to his separation from UNICEF. The Applicant then alleged that he was forced to sign the separation agreement. He provided no evidence of the alleged duress. The Respondent, however, in Annexes R3 and R4 to the reply, filed a series of email exchanges between the Applicant and UNICEF management in which the Applicant described his grievances, his efforts at informal resolution of those grievances in accordance with CF/EXD/2012-007, his waiver of claims and desire to be bound by the terms of the separation agreement.

Decision Contested or Judgment/Order Appealed

The Applicant was challenging what he described as the termination of his fixedterm appointment. In his application, the Applicant made several allegations of bullying, harassment, intimidation and abuse of authority against his supervisor and the UNICEF Country Representative.

Legal Principle(s)

The UNDT is not cloaked with jurisdiction to investigate harassment complaints under art.2 of the UNDT Statute. However, for the purpose of determining if the

impugned administrative decisions were improperly motivated, it is within the competence of the UNDT to examine allegations of harassment. This is different from a de novo investigation into a complaint of harassment. It is not the task of the UNDT to conduct a fresh investigation into a harassment complaint rather its task is to determine if there was a proper investigation into the allegations.

Outcome

Dismissed on merits

Outcome Extra Text

Having found that the Applicant's allegations of bullying, harassment, intimidation and abuse of authority by his supervisor and the UNICEF Country Representative were adequately addressed, the Tribunal dismissed the application in its entirety.

Full judgment

[Full judgment](#)

Applicants/Appellants

Kuai

Entity

UNICEF

Case Number(s)

UNDT/NBI/2015/171

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

8 Mar 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Abuse of authority

Harassment (non-sexual)

Applicable Law

UNDT Statute

- Article 2

UNICEF Administrative Instructions

- CF/AI/2007-007