

UNDT/2021/045, Monnier

UNAT Held or UNDT Pronouncements

It is not the role of the Dispute Tribunal to evaluate the correctness of the contested decision but rather examine whether the Administration respected the bounds of its discretionary power in reaching it. While the Applicant alleged that evidence was ignored and that OIOS investigators were biased against him, he provided no detail in support of these assertions. Tribunal was satisfied that OIOS interviewed all relevant witnesses with respect to the incidents of alleged sexual misconduct and reviewed the available documentation. The Tribunal was also satisfied that the conclusion that the evidence did not support that the allegation that unwelcome sexual conduct occurred during trips to Nairobi and Thailand was supported by the record and is rational. The Applicant has not been able to show that these findings were motivated by bias against him. The Tribunal did not find that relevant matters were ignored or irrelevant matters considered and concludes that the decision was not absurd or perverse. The Tribunal was satisfied that the procedure set in ST/SGB/2008/5 was properly followed.

Decision Contested or Judgment/Order Appealed

Decision not to pursue the Applicant's complaint of sexual harassment.

Legal Principle(s)

A decision to initiate a disciplinary process falls within the discretion of the Administration. In reviewing the Administration's use of its discretionary power, the Dispute Tribunal is not to consider the correctness of the decision, but rather whether such decision was legal, rational, procedurally correct and proportionate. In doing so, the Dispute Tribunal will consider whether relevant matters had been ignored and irrelevant matters considered and can examine whether the decision was absurd or perverse.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Monnier

Entity

UNEP

Case Number(s)

UNDT/NY/2020/035

Tribunal

UNDT

Registry

New York

Date of Judgement

28 Apr 2021

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Sexual harassment

Applicable Law

Secretary-General's bulletins

- SGB/2008/5