

UNDT/2021/130, Mitchell

UNAT Held or UNDT Pronouncements

OIOS acted in accordance with the procedures set down in ST/SGB/2019/8 and ST/AI/2017/1, taking into account all relevant considerations in reaching its decision under section 5.1 of ST/AI/2017/1 to take no action on the complaint. Accordingly, there was no foundation for the substantive claim made by the Applicant, nor any foundation for any award of compensation. An investigation would not resolve the dispute between the Applicant and the SRSG, since there clearly was and remains inter-personal differences between them. Instead, it would likely deepen the divide between them. An investigation will naturally produce countervailing arguments which may go to the performance and fitness of the Applicant for his role, issues that the SRSG touched on in her response. The issue was deemed a management issue between two individuals where an informal process would be more appropriate. The application was dismissed.

Decision Contested or Judgment/Order Appealed

The decision by OIOS to close the investigation into the Applicant's complaint against the Special Representative of the Secretary-General (SRSG) at the United Nations Office to the African Union (UNOAU).

Legal Principle(s)

Section 5.5 of ST/SGB/2019/8 provides that the preliminary assessment of a report of possible prohibited conduct will be conducted in accordance with the procedures set out in sections 5 to 12 of ST/AI/2017/1. Section 5.1 of ST/AI/2017/1 provides that the Office of Internal Oversight Services (OIOS) is responsible for determining whether any action will be taken on a complaint of prohibited conduct.

Outcome

Dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Mitchell

Entity

Other Agency/Fund/Programme/UN Entity

Case Number(s)

UNDT/NBI/2021/4

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

10 Nov 2021

Duty Judge

Judge Hunter Jr.

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Race

Applicable Law

Administrative Instructions

- ST/AI/2017/1

Secretary-General's bulletins

- ST/SGB/2019/8

UNDT RoP