

2010-UNAT-098, Masri

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT preliminarily held that the appeal was receivable, in accordance with Article 7(1)(a) of the UNAT RoP. UNAT noted that, although not all allegations of misconduct against Mr Masri were proved, some of the allegations were sufficiently supported by the evidence. UNAT held that the evidence established that Mr Masri met vendors at his home outside working hours and discussed UN Mission in the Democratic Republic of the Congo (MONUC) contracts, he received the benefit of interest-free loans from two vendors, and he gave assistance to a vendor in connection with its technical proposal for a catering contract with MONUC. UNAT held that this conduct violated a number of the Financial and Staff Regulations and amounted to serious misconduct. UNAT held that the disciplinary measure of summary dismissal adopted in this case was proportionate to the misconduct. UNAT upheld the appeal, affirmed the administrative decision imposing the disciplinary measure of summary dismissal, and reversed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Masri contested his summary dismissal. UNDT found that the Secretary-General failed to substantiate the disciplinary charges against Mr Masri to the required standard of proof and that the sanction of summary dismissal was disproportionate. UNDT rescinded the decision to summarily dismiss Mr Masri and ordered the Secretary-General to reinstate Mr Masri and pay his lost earnings with interest. UNDT ordered that Mr Masri be demoted by four steps within his job level at the time of his summary dismissal and that he be paid fixed compensation, should the Secretary-General decide not to perform the obligation to rescind the decision.

Legal Principle(s)

Staff members exercising procurement functions are required to conduct themselves, from an objective standpoint, in an impartial and honest way and act only in the interests of the UN. To comply with this duty, staff members must be seen to act with integrity, obtain no personal benefit from third parties and not engage in any conduct which could create the impression of favouring third parties; they must be and appear to be above reproach, particularly when interacting with persons or entities who could potentially become involved in supplying goods or services to the Organisation, or are currently in such a relationship, like vendors.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Masri

Entity

MONUC

Case Number(s)

2010-095

Tribunal

UNAT

Registry

New York

Date of Judgement

21 Oct 2011

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Dismissal/separation

Standard of proof

Disciplinary cases

Applicable Law

Staff Regulations

- Regulation 1.2(b)
- Regulation 1.2(g)

UNAT RoP

- Article 7.1(a)

Related Judgments and Orders

UNDT/2010/056

2010-UNAT-024

2010-UNAT-028