

2010-UNAT-100, Abboud

UNAT Held or UNDT Pronouncements

UNAT affirmed that the circumstances of the allegation of unsatisfactory conduct in the present case created the obligation to initiate a preliminary investigation. However, UNAT noted that UNDT erred in awarding damages to Mr Abboud while finding that he had not suffered any economic loss and that no actual damage existed. UNAT rescinded the UNDT's judgment to the extent that it awarded damages to Mr Abboud.

Decision Contested or Judgment/Order Appealed

Mr Abboud contested the decision of the USG/DGACM not to order a "preliminary" investigation into alleged inappropriate behaviour of a Special Assistant of the USG/DGACM during the Applicant's interview for a P-5 position. UNDT rescinded the decision of the USG/DGACM on the basis that the present case created the obligation to initiate a preliminary investigation, which the USG/DGACM failed to conduct. UNDT acknowledged that Mr Abboud had not suffered any economic loss yet determined that the violation of Mr Abboud's right to a fair consideration of his request for an investigation entitled him to compensation in the amount of USD 20,000.

Legal Principle(s)

The instigation of disciplinary charges against a staff member is the privilege of the Organisation itself, and it is not legally possible to compel the Administration to take disciplinary action against another part. However, an Organisation has the duty to take all appropriate measures towards ensuring a harmonious work environment and to protect its staff from exposure to any form of prohibited conduct. Failure to take action may be considered a breach of duty and result in administrative action and/or the institution of disciplinary proceedings. A party may seek to submit documentary evidence to UNAT, in addition to that contained in the written record. In exceptional circumstances, and where UNAT determines that the facts are likely to be established with such additional documentary evidence, it may receive the additional evidence from a party. judgments of UNDT shall be issued in writing and shall state the reasons, facts and law on which they are based.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Abboud

Entity

DGACM

Case Number(s)

2010-074

Tribunal

UNAT

Registry

New York

Date of Judgement

11 Mar 2011

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Evidence of harm

Disciplinary matters / misconduct

Investigation (see category: Investigation)

Investigation

Applicable Law

Administrative Instructions

- ST/AI/371

Secretary-General's bulletins

- ST/SGB/2008/5

UNAT Statute

- Article 10.2
- Article 2.1(a)

UNDT Statute