

2011-UNAT-130, Koda

UNAT Held or UNDT Pronouncements

UNAT affirmed the UNDT judgment. UNAT held that OIOS operates under the “authority” of the Secretary-General but has “operational independence”. UNAT further noted that, insofar as the contents and procedures of an individual report are concerned, the Secretary-General has no power to influence or interfere with OIOS. UNAT held that UNDT also has no jurisdiction to do so, as it can only review the Secretary-General’s administrative decisions. UNAT, however, noted that to the extent that any OIOS decisions are used to affect staff members’ terms or contract of employment, OIOS’ reports may be impugned. For example, an OIOS report might be found to be so flawed that the Administration’s taking disciplinary action based thereon must be set aside. UNAT noted that though UNDT found flaws in the OIOS’ report, no disciplinary action was based upon it since the Administration disregarded OIOS’ recommendation.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to constructively dismiss her. UNDT found that she was not constructively dismissed and that OIOS’ decision, regarding the content of its audit report, was not within its jurisdiction.

Legal Principle(s)

While reports and recommendations made by OIOS do not constitute administrative decisions, an administrative decision that is taken based on an OIOS report or recommendation may be impugned.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Koda

Entity

DPI

Case Number(s)

2010-118

Tribunal

UNAT

Registry

New York

Date of Judgement

8 Jul 2011

President Judge

Judge Painter

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Ethics office

Receivability

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Applicable Law

UN Charter

- Article 97

Related Judgments and Orders

UNDT/2010/110