

2011-UNAT-143, Appellant

UNAT Held or UNDT Pronouncements

UNAT held that UNDT properly determined that the issue before it was the failure of the Administration to address the Appellant's formal complaint. UNAT held that there was no error of law or failure to exercise jurisdiction on the part of UNDT with regard to the Appellant's request for an investigation. UNAT held that it was satisfied that the award by UNDT of USD 40,000 constituted sufficient satisfaction for the Appellant. UNAT held that UNDT correctly refused to entertain the request for compensation for economic loss because the Appellant's separation from service was not the subject of judicial review. On the issue of the Appellant's request for an apology, UNAT found no basis to impugn the approach adopted by UNDT. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

The Appellant sought a variety of reliefs following a decision in the Appellant's favour to compensate the Appellant for the Administration's failure to address the complaint with the required due diligence. UNDT restricted itself to consideration of the adequacy of compensation. Noting that the Appellant was deprived of the opportunity to prove a breach of the Appellant's fundamental human right not to be discriminated against on the grounds of sexual orientation and HIV status and that the Appellant's rights were further compromised by the passage of time which rendered any enquiry ineffective, UNDT awarded USD 40,000 for emotional distress, which sum included the equivalent of one month's net base salary that the Secretary-General had agreed to pay, but not yet paid.

Legal Principle(s)

In order to invoke the jurisdiction of UNDT, a specific administrative decision must be identified and administrative review must be sought in relation to that decision.

UNDT is in the best position to determine the nature of the remedy that should be granted in any case.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Appellant

Entity

UNHCR

Case Number(s)

2010-140

Tribunal

UNAT

Registry

New York

Date of Judgement

8 Jul 2011

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Due process

Delay

Remedies

Compensation (see also, Compensation)

Specific performance

Applicable Law

Administrative Instructions

- ST/AI/371

Information Circulars

- ST/IC/2003/17

UNDT Statute

- Article 10.5
- Article 10.5(a)
- Article 10.5(b)

Related Judgments and Orders

UNDT/2010/148

2010-UNAT-049

2010-UNAT-035