

2011-UNAT-148, Shkurtaj

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General of the Compensation Case, an appeal by Mr Shkurtaj of the Ethics Policy Case, and a cross-appeal by Mr Shkurtaj of the Compensation Case. UNAT held that a former staff member has standing to contest an administrative decision concerning him or her if the facts giving rise to his or her complaint arose from his or her employment and that there must be sufficient nexus between the former employment and the impugned action. UNAT held that an award for damages was justified in the circumstances. UNAT held that the amount of fourteen months' net base salary, as recommended by the Ethics Office and ordered by UNDT, was excessive and reduced this to six months. UNAT affirmed the award of USD 5,000 for the Administration's substantial delay. UNAT affirmed UNDT's finding that there had been no retaliation. UNAT dismissed Mr Shkurtaj's appeal, granted the Secretary-General's appeal in part, and dismissed Mr Shkurtaj's cross-appeal. UNAT affirmed the UNDT judgment, except insofar as the fourteen months' compensation was reduced to six months' compensation.

Decision Contested or Judgment/Order Appealed

In the context of an alleged retaliation case, the Applicant contested the decision not to pay him fourteen months' net base salary as recommended by the Director of the Ethics Office (Compensation Case) and the refusal by the Administration to apply the Secretary-General's Bulletin on retaliation (Ethics Policy Case). UNDT held that the Applicant had standing in both cases. On the merits, UNDT found for the Applicant in the Compensation Case, awarding an additional USD 5,000 for the Administration's failure to consider in a timely manner, act on, or communicate the Ethics Office's findings and recommendations to the Applicant. On the merits, UNDT dismissed the Ethics Policy Case.

Legal Principle(s)

A former staff member has standing to contest an administrative decision concerning him or her if the facts giving rise to his or her complaint arose or flowed from his or her employment; there must be sufficient nexus between the former employment and the impugned action. Damages awarded for violation of due process rights are not exemplary or punitive but must be awarded with care and be of a reasonable amount.

Outcome

Appeal dismissed on merits; Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Shkurtaj

Entity

UNDP

Case Number(s)

2010-146

2010-147

Tribunal

UNAT

Registry

New York

Date of Judgement

8 Jul 2011

President Judge

Judge Painter

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Pecuniary (material) damages

Due process

Delay

Ethics office

Retaliation

Jurisdiction / receivability (UNDT or first instance)

Personal (ratione personae)

Related Judgments and Orders

UNDT/2010/156