

# 2012-UNAT-207, Hallal

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal, in which the Appellant claimed that UNDT committed procedural errors in allowing the Secretary-General to embark on a de novo fact-finding inquiry and that the disciplinary measure of separation was disproportionate. UNAT held that it was within the competence of UNDT to hold oral hearings as well as to order the production of evidence for fair and expeditious disposal of the proceedings. UNAT held that the Administration bears the burden of establishing that the alleged misconduct, for which a disciplinary measure has been taken against a staff member, occurred and that this burden was met through the evidence considered by UNDT. UNAT held that the Appellant's assertion that his statements were more credible than the evidence given by a United Nations Volunteer were unfounded. UNAT found that he was merely repeating arguments already thoroughly considered and rejected by UNDT. UNAT held that the Appellant did not identify any mitigating factors that demonstrated that the summary dismissal was disproportionate to the offence. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to separate him from service without notice to the former UN Administrative Tribunal. UNDT rejected the Applicant's claims that the disciplinary measure was not proportionate to the misconduct and that his due process rights were not respected. UNDT dismissed the application.

## Legal Principle(s)

In exercising judicial review in disciplinary cases, UNDT must examine: (1) whether the facts on which the disciplinary measure was based have been established; (2) whether the established facts legally amount to misconduct under the Staff

Regulations and Rules; and (3) whether the disciplinary measure applied was disproportionate to the offence. In a system of administration of justice governed by law, the presumption of innocence must be respected. In disciplinary matters, the Administration bears the burden of establishing that the alleged misconduct for which a disciplinary measure has been taken against a staff member occurred.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Hallal

## Entity

UNICEF

## Case Number(s)

2011-212

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

16 Mar 2012

## President Judge

Judge Adinyira

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Disciplinary measure or sanction

Dismissal/separation

Termination (of appointment)

Summary dismissal

## Applicable Law

UNDT RoP

- Article 16
- Article 18

## Related Judgments and Orders

UNDT/2011/046

2010-UNAT-022

2010-UNAT-087