

2014-UNAT-475, Gehr

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. The Secretary-General contended that the Ethics Office's determination that no credible prima facie case of retaliation had been established was not an administrative decision subject to judicial review under Article 2 of the UNDT Statute. UNAT noted that the key characteristic of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member's terms or conditions of appointment. UNAT found that, in this case, the recommendation of the Ethics Office had no legal consequences for Mr Gehr. UNAT held that the decision of the Ethics Office was not an administrative decision, rather a recommendation, and in view of the lack of evidence, no compensation for moral injury should have been awarded. UNAT upheld the appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Gehr challenged the determination made by the Ethics Office, that a prima facie case of retaliation had not been established, and the inordinate delay by the Ethics Office in reaching a decision. UNDT concluded that the Ethics Office did not err in reaching its determination. However, UNDT, found that the Ethics Office had acted with an undue delay of almost ten months in responding to Mr Gehr's report of misconduct and that the delay had caused him anxiety and unnecessary frustration, for which UNDT awarded compensation.

Legal Principle(s)

The key characteristic of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member's terms or conditions of appointment. What constitutes an administrative decision will

depend on the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Gehr

Entity

UNODC

Case Number(s)

2013-548

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Definition

Ethics office

Retaliation

Applicable Law

UNDT Statute

- Article 2

Related Judgments and Orders

UNDT/2013/127

2011-UNAT-109

2012-UNAT-228

2010-UNAT-058

2014-UNAT-404

2014-UNAT-457

2014-UNAT-419

2013-UNAT-294