

2015-UNAT-505, Benfield-Laporte

UNAT Held or UNDT Pronouncements

UNAT considered both appeals by the Secretary-General and by Ms. Benfield-Laporte. UNAT affirmed UNDT's finding that the ASG/OHRM did not err in deciding that the staff member's complaint did not provide sufficient grounds to warrant a formal fact-finding investigation. UNAT held that the ASG/OHRM has a degree of discretion as to how to conduct a review and assessment of a complaint and to decide whether an investigation regarding all or some of the charges is warranted. UNAT held that where there is no risk of undermining the investigation, it is a good practice to hear both sides in order to decide whether there are sufficient grounds to warrant a fact-finding investigation. UNAT also affirmed UNDT's award of compensation, noting that a period of six months to communicate the decision not to open a formal fact-finding investigation was far from prompt. UNAT upheld the Secretary-General's appeal in part and reversed the UNDT judgment in part. UNAT dismissed Ms. Benfield-Laporte's appeal.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to conduct a formal fact-finding investigation into her complaint against her former supervisor. UNDT found that the Assistant Secretary-General for Human Resources Management (ASG/OHRM) did not err in deciding that the staff member's complaint did not provide sufficient grounds to warrant a formal fact-finding investigation. Nonetheless, UNDT awarded the staff member compensation in the amount of USD 3,000 for emotional distress and anxiety caused by the six-month delay by the Administration in communicating its decision to her.

Legal Principle(s)

The Administration has a degree of discretion as to how to conduct a review of a complaint filed under ST/SGB/2008/5 and may decide whether an investigation into all or some of the allegations is warranted. Where there is no risk of undermining the investigation, it is good practice to hear both sides in order to determine whether there are sufficient grounds to warrant a fact-finding investigation.

Outcome

Appeal dismissed on merits; Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Benfield-Laporte

Entity

UNOG

Case Number(s)

2014-575

2014-580

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Abuse of authority

Harassment (non-sexual)

Investigation

Fact-finding investigation

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

Related Judgments and Orders

UNDT/2013/162

2010-UNAT-042

2010-UNAT-100

2013-UNAT-309