

2015-UNAT-518, Oummih

UNAT Held or UNDT Pronouncements

UNAT held that UNDT erred in concluding that the refusal by the former Executive Director to open an investigation into all the allegations raised violated ST/SGB/2008/5. UNAT held that the Administration has a degree of discretion as to how to conduct a review and assessment of a complaint and may decide whether to undertake a fact-finding investigation into all or some of the allegations. UNAT affirmed UNDT's conclusion that the former Executive Director did not comply with ST/SGB/2008/5 by hiring two consultants from outside the Organisation to conduct the investigation. Under ST/SGB/2008/5, the responsible official must entrust the fact-finding investigation to a panel of two persons from the department who are trained for that purpose or, if that is not possible, appoint two persons from the roster maintained for that purpose by OHRM. UNAT remanded the matter to the former Executive Director to establish a new fact-finding panel in accordance with ST/SGB/2008/5. However, UNAT determined that the staff member had not experienced any inordinate delay regarding the handling of her complaint which would merit the award of damages and vacated UNDT's award of CHF8,000 in moral damages.

Decision Contested or Judgment/Order Appealed

The Applicant contested the refusal by the former Executive Director of OAJ to open an investigation into all the allegations of harassment and abuse of authority she alleged had been committed by her supervisor and one of her former colleagues. UNDT determined that the refusal by the former Executive Director to open an investigation into all the allegations violated ST/SGB/2008/5. UNDT determined that the former Executive Director had failed to comply with ST/SGB/2008/5 by hiring two consultants from outside the Organisation to conduct the investigation. UNDT ordered that the contested decision be rescinded and ordered the Administration to pay the staff member CHF 8,000 as moral damages.

Legal Principle(s)

The Administration has a degree of discretion as to how to conduct a review and assessment of complaints filed under ST/SGB/2008/5 and may decide whether to undertake a fact-finding investigation into all or some of the allegations. The investigation must be conducted by a panel of two persons from the department who received the internal investigation training provided by OIOS or, if that is not possible, from the roster maintained for that purpose by OHRM.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Oummih

Entity

OAJ

Case Number(s)

2014-592

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

President Judge

Judge Weinberg de Roca

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Abuse of authority

Investigation

Fact-finding investigation

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

Related Judgments and Orders

UNDT/2014/004

2011-UNAT-114

2010-UNAT-100

2012-UNAT-225