

2015-UNAT-535, Rangel

UNAT Held or UNDT Pronouncements

UNAT had before it three decisions of the Conciliation Committee: the first regarding the establishment of two inquiry panels, Panel One and Panel Two; the second in respect of the decision to place the Appellant on administrative leave with pay, and the third concerning the decision to separate her from service. As a preliminary matter, UNAT did not admit to the case file two motions submitted by the Appellant subsequent to the issuance of judgment No. 2015-UNAT-531, as UNAT held that the documents that she sought to adduce would not assist UNAT with its consideration on the merits. By way of preliminary observation, UNAT held that the ICJ Registrar correctly determined that the issues raised in a complaint against the Appellant were sufficient to give him reason to believe that misconduct may have occurred and thereby justified the decision to commence a fact-finding investigation. UNAT held that there was no basis for the Appellant's complaints regarding Panel One and that the ICJ Registrar had applied ST/SGB/2008/5 when he constituted the Panel. UNAT held that the ICJ Registrar breached ST/SGB/2008/5 when he appointed individuals from outside the ICJ to conduct the investigation (Panel Two). UNAT held that where an investigation is conducted by unauthorised persons, the investigation report and its findings cannot be taken into account. UNAT dismissed the Appellant's challenge to the decision to place her on administrative leave while the investigation was ongoing, noting that as the Appellant did not show that she was prejudiced by being placed on administrative leave. With regard to the disciplinary procedure, UNAT held that the Appellant was not notified in writing of the written charges against her and that specifically, the sending of the reports of the two investigation panels to her was not the same as charging her with misconduct. UNAT held that absent such charges, the Appellant was not put on notice of the possible misconduct which she was considered to have committed. UNAT held that the Appellant's termination was legally unsustainable. UNAT allowed the appeal and reversed the decision of the Conciliation Committee that the termination was lawful. UNAT ordered the Appellant's reinstatement or, as an alternative to reinstatement, the award of two years' net base salary.

Decision Contested or Judgment/Order Appealed

ICJ Decision: The Applicant challenged a number of decisions of the ICJ Conciliation Committee related to her termination and separation from service on disciplinary grounds.

Legal Principle(s)

Where an investigation is conducted by unauthorised persons, the investigation report and its findings cannot be taken into account. A breach of due process occurs when an individual staff member is not informed of the concrete or specific charges against him or her that could result in termination.

Outcome

Appeal granted

Outcome Extra Text

Only financial compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Rangel

Entity

ICJ

Case Number(s)

2014-611

2014-674

2015-689

Tribunal

UNAT

Registry

New York

Date of Judgement

2 Jul 2015

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Due process

Applicable Law

ICJ Staff Regulations

- Annex VI
- Regulation 11.7

Secretary-General's bulletins

- ST/SGB/2008/5

UNAT Statute

- Article 9

Related Judgments and Orders

2015-UNAT-518

2014-UNAT-486

2010-UNAT-100