

2017-UNAT-733, Nadeau

UNAT Held or UNDT Pronouncements

UNAT denied the Appellant's application for an oral hearing. UNAT held that the UNDT had not committed an error of procedure by denying the Appellant an oral hearing. UNAT held that UNDT enjoys a wide margin of discretion in all matters relating to case management and there was no error in the proceedings before UNDT with specific consideration of the following: UNDT's denial of the proceedings to be conducted in French; UNDT's dismissal of objections to English translations in the application and other documents, UNDT's issuance of its judgment before having the Secretary-General's reply translated; and UNDT's failure to have specific annexes to the Appellant's application translated into English. UNAT held that UNDT did not commit an error of law or exceed its jurisdiction. UNAT further held that a fact-finding investigation may only be undertaken if there are sufficient grounds or, respectively, reasons to believe that a staff member has engaged in unsatisfactory conduct for which a disciplinary measure may be imposed. UNAT held that UNDT correctly held that the Appellant's request for investigations against the Officer-in-Charge of the Management Evaluation Unit was lawfully denied by the Under-Secretary-General for Management. UNAT held that there was no reason to believe that the Officer-in-Charge of the Management Evaluation Unit had engaged in unsatisfactory conduct. Noting that management evaluation is a mere condition of receivability of an application before the UNDT and did not form part of the contested administrative decision, UNAT held that the Appellant's submissions with regard to the management evaluation decision were not relevant on appeal. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the dismissal by the Under-Secretary-General for Management of two complaints that the Applicant had submitted against the Officer-in-Charge of the Management Evaluation Unit. The UNDT dismissed the application in its entirety.

Legal Principle(s)

UNDT enjoys a wide margin of discretion in all matters relating to case management. The instigation of disciplinary charges against a staff member is the privilege of the Organisation itself and it is not legally possible to compel the Administration to take disciplinary action. Only in particular situations does a staff member have a right to an investigation against another staff member and there are situations where the only possible and lawful decision of the Administration is to deny a staff member's request to undertake an investigation against another staff member.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Nadeau

Entity

OIOS

Case Number(s)

2016-976

Tribunal

UNAT

Registry

New York

Date of Judgement

31 Mar 2017

President Judge

Judge Knierim

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Investigation

Fact-finding investigation

Management Evaluation

Applicable Law

Administrative Instructions

- ST/AI/371

Secretary-General's bulletins

- ST/SGB/2008/5

UNAT RoP

- Article 16.1
- Article 18.1

UNAT Statute

- Article 2.1(d)

- Article 8.3
- Article 2.1(a)

UNDT Statute

- Article 8.6

Related Judgments and Orders

UNDT/2016/116