

2018-UNAT-822, Elobaid

UNAT Held or UNDT Pronouncements

The Secretary-General appealed. UNAT held that UNDT erred in law when it found that there was a breach of Mr Elobaid's due process rights, as Mr Elobaid was correctly apprised of the allegations against him, which could lead to administrative action, and was afforded the opportunity to make representations against the measure taken. UNAT held that UNDT erred in fact, resulting in a manifestly unreasonable decision, when it assumed that the reprimand originated from Mr Ward, of the Chief Programme Support and Management Services at the Office of the High Commissioner for Human Rights, who lacked the necessary delegated authority to issue a reprimand. UNAT held that even though Mr Ward signed the memorandum, the decision was taken on behalf of the High Commissioner. UNAT held that UNDT erred in a matter of law when it found that the facts of the case were not established to the requisite standard of proof. UNAT held that the evidence produced before UNDT demonstrated that the reprimand was based on "reasonable grounds", which was sufficient to establish the facts to the applicable standard of proof. UNAT held that the issuance of the reprimand was a proper exercise of the discretion vested in the Administration. UNAT upheld the appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Elobaid contested the decision to issue him a written reprimand and to withhold an investigation report. UNDT ordered rescission of the decision to issue a reprimand and that the reprimand was expunged from the Applicant's Official Status File.

Legal Principle(s)

The consequences of a disciplinary measure are not equivalent to those of an administrative measure. Although the reprimand could have an adverse impact on

the concerned staff member's career, since it is placed in their Official Status File, it is not comparable, by its nature, to the effects of any disciplinary measure.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Elobaid

Entity

OHCHR

Case Number(s)

2017-1111

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Right to comment/respond

Investigation

Due process

Standard of proof

Disciplinary cases

Applicable Law

Administrative Instructions

- ST/AI/234/Rev.1
- ST/AI/292

Staff Rules

- Annex II
- Rule 1.2(c)
- Rule 10.1(c)
- Rule 10.3(a)
- Rule 10.5

Related Judgments and Orders

UNDT/2017/054