

2019-UNAT-915, Yasin

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT properly reviewed the contested decision in accordance with the applicable law and established the critical facts of the case. UNAT held that UNDT had a broad discretion to determine the admissibility of evidence and the weight to be attached thereto and that UNDT's conclusion was consistent with the evidence. UNAT held that the UNDT's conclusion that the impugned decision was unlawful was correct, albeit for different reasoning. UNAT held that the facts underpinning the administrative decision to issue the staff member a written reprimand could not uphold its reasoning, which was therefore flawed. UNAT affirmed the UNDT's findings and conclusions that the impugned decision was unlawful. UNAT held that the Secretary-General merely voiced disagreement, repeated his submissions, and did not meet the burden of proof for demonstrating an error in the impugned judgment such as to warrant its reversal. UNAT held that the issuance of the reprimand was not a proper exercise of the discretion vested in the Administration. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the issuance of a reprimand letter. The Applicant had been informed that the Administration had dropped the charge against her that she had made derogatory comments about another staff member for reasons of insufficient evidence, closed the matter, issued a letter of written reprimand to be placed in the Applicant's official status file and required the Applicant to do communication and problem-solving training. UNDT considered the decision to reprimand the Applicant to be unjustified and ordered its rescission and the removal of the letter from her official status file.

Legal Principle(s)

Although the reprimand is not a disciplinary measure but an administrative one, because of its adverse impact on the concerned staff member's career, it must be warranted on the basis of reliable facts, established to the requisite standard of proof, namely that of the preponderance of evidence, and be reasoned in order to allow judicial review and to protect individuals. UNDT has a broad discretion to determine the admissibility of any evidence and the weight to be attached thereto.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Yasin

Entity

UNAMI

Case Number(s)

2018-1209

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Mar 2019

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Facts (establishment of) / evidence

Non-disciplinary/administrative measures

Applicable Law

Administrative Instructions

- ST/AI/371/Amend.1

Staff Regulations

- Regulation 1.2

Staff Rules

- Rule 10.3

UNAT Statute

- Article 2.1(e)

UNDT RoP

- Article 18.1

Related Judgments and Orders

UNDT/2018/087