

UNDT/2022/021, TOSON

UNAT Held or UNDT Pronouncements

The Tribunal found that the right to know the contents of the report, although summarized, was implicit in the right of a staff member to complain against third persons because this right includes the right to know the reasons for which the Administration did not punish the accused person and the right to challenge this decision, founding the claim on specific grounds related to the Administration's assessment of the facts. The jurisprudence acknowledges the right of the complainant to have a summary of the report is recognized too, and it is confirmed that only under exceptional circumstances, to be examined under a case-by-case analysis, the complainant is entitled to have a full report. The Applicant has a right to receive the report from the Administration.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's decision to close the investigation into his complaint against the Regional Director; the Applicant's complaint pertained to sexual exploitation and abuse, sexual and workplace harassment, abuse of authority, favouritism and fraudulent travel requests by the RD.

Legal Principle(s)

ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority) provides the right for the complainant and the investigated person to receive the summary report. The same right is acknowledged by UNAT in its case law, where such right is granted to the complainant and not only to the accused staff member.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

TOSON

Entity

UNFPA

Case Number(s)

UNDT/NBI/2021/078

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

4 Mar 2022

Duty Judge

Judge Buffa

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Investigation

Due process

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5