

2022-UNAT-1234, Gabriel Branglidor

UNAT Held or UNDT Pronouncements

Mr. Branglidor appealed. UNAT found that the totality of the evidence confirmed the UNDT's conclusion that Mr. Branglidor was well aware of the untruthfulness of the forms when he submitted the second claim for the regular disbursement of the education grant. UNAT was satisfied that the UNDT was correct when it held that the act of misconduct was committed with knowledge and intent. Even though the misconduct did not lead to any actual prejudice, since the Administration recovered the payment made in advance and did not pay any further education grant, Mr. Branglidor's endeavor could have undoubtedly caused some potential prejudice. Finally, UNAT also found that the sanction was proportionate. UNAT dismissed the appeal.

Decision Contested or Judgment/Order Appealed

Mr. Branglidor, a former staff member of MINUSMA, challenged the decision to impose on him the disciplinary measure of separation from service on account of misconduct because he had submitted one or more education grant claims and/or documentation that contained false information. The UNDT rejected the application. The UNDT considered that Mr. Branglidor had not provided any evidence that would contradict the fundamental findings on the objective element of the impugned conduct and that he had indeed made requests for reimbursement based on untrue information. The UNDT further found that the credible facts of the case added up to form a very high probability of an act committed with knowledge and intent. Moreover, the UNDT held that the facts as established qualified as misconduct under the Staff Regulations and Rules, and the sanction was not disproportionate to the offence committed. Finally, the UNDT held that Mr. Branglidor's due process rights had been respected at all times.

Legal Principle(s)

The general standard of judicial review in disciplinary cases requires the UNDT to ascertain whether the facts on which a sanction is based have been established, whether the established facts qualify as misconduct, and whether the sanction is proportionate to the offence. When termination is a possible outcome, misconduct must be established by clear and convincing evidence, which means that the truth of the facts asserted is highly probable. Apart from exceptional cases involving major violations of due process rights, it is not sufficient for the UNDT to find procedural errors in a disciplinary process but, where necessary, it has to conduct a de novo review of the facts and a judicial review of the remaining aspects of the case. The requirement of a de novo review of the facts does not mean that the UNDT will necessarily have to re-hear all the witnesses of the investigation procedure or to hear new witnesses. If there is sufficient and substantial evidence in the written record, the UNDT may also base its findings on the record.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Gabriel Branglidor

Entity

UN Secretariat

Case Number(s)

2021-1539

Tribunal

UNAT

Registry

New York

Date of Judgement

18 Mar 2022

President Judge

Judge Halfeld

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary measure or sanction
Fraud, misrepresentation and false certification
Proportionality of sanction
Disciplinary matters / misconduct

Applicable Law

Staff Rules

- Rule 10.1
- Rule 10.2

UNAT RoP

- Article 18.1

UNAT Statute

- Article 2.1
- Article 8.3

Related Judgments and Orders

2012-UNAT-199

2015-UNAT-523

2013-UNAT-302

2011-UNAT-164

2017-UNAT-782

2018-UNAT-819

2017-UNAT-711

2015-UNAT-540