

# **UNDT/2022/110, Fultang**

## **UNAT Held or UNDT Pronouncements**

The Tribunal recalled its observations in Fultang UNDT/2022/102 filed by this Applicant. The measure is provided in the interest of the Organization; and was fully justified by the need to preserve evidence and to avoid the risk of repetition or continuation of further acts similar to those the Applicant was accused of.

## **Decision Contested or Judgment/Order Appealed**

The Applicant challenged the Administration's decision to extend his Administrative Leave with Pay ("ALWP"), pending an investigation into his conduct and any disciplinary process.

## **Legal Principle(s)**

The receivability of challenging a decision to place or extend a staff member on administrative leave is directly confirmed by staff rule 10.4(e). Given the right of any worker to perform his/her job, the placement of a staff member on administrative leave impacts on their rights and causes concrete negative consequence for the terms or conditions of appointment. Proceedings before the MEU are not comparable to the mediation run by the Ombudsman (where the parties are bound not to disclose privileged communications related to mediation attempts), because MEU is still part of the Administration, and the ME process is like an administrative review of the administrative decision. Therefore, the Administration can lawfully take into account the behaviors of the parties during the ME process, given its administrative nature. Therefore, the documents exhibited in the ME are legally acquired by the Administration.

## **Outcome**

Appeal dismissed on merits

## Outcome Extra Text

### Full judgment

[Full judgment](#)

### Applicants/Appellants

Fultang

### Entity

UNISFA

### Case Number(s)

UNDT/NBI/2022/038

### Tribunal

UNDT

### Registry

Nairobi

### Date of Judgement

10 Oct 2022

### Duty Judge

Judge Buffa

### Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Fraud, misrepresentation and false certification

Jurisdiction / receivability (UNDT or first instance)

Disciplinary matters / misconduct

## Applicable Law

Staff Rules

- Rule 10.4

## Related Judgments and Orders

2022-UNAT-1205