

UNDT/2022/111, Soares

UNAT Held or UNDT Pronouncements

The allegations in the Applicant's complaint squarely [fell] in the realm of workplace disagreements about the normal exercise of managerial authority. Section 1.1 of ST/SGB/2019/8 states that "[d]isagreement on work performance or on other work-related issues is normally not considered prohibited conduct and is not dealt with under the provisions of the present bulletin but in the context of performance management". The responsible official's conclusion that it was unlikely that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case (section 5.5 (c) of ST/AI/2017/1) was not unlawful; it was taken within the limits provided for a reasonable exercise of the Organization's discretion in accordance with ST/AI/2017/1.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Administration's decision to not open an investigation into her complaint of workplace harassment and abuse of authority against her Second Reporting Officer.

Legal Principle(s)

Staff rule 1.2(a) provides that staff members shall follow the directions and instructions properly issued by the Secretary-General and by their supervisors. Staff regulation 1.2(c) provides that the Secretary-General has broad discretion to assign staff to different functions as he deems appropriate. A mere disagreement between staff members in a supervisory relationship does not, in and of itself, give rise to cause for an investigation.

Outcome

Appeal dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Soares

Entity

UNMISS

Case Number(s)

UNDT/NBI/2021/068

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

10 Oct 2022

Duty Judge

Judge Buffa

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Bias/favouritism

Scope of investigation

Discrimination and other improper motives

Investigation

Applicable Law

Administrative Instructions

- ST/AI/2017/1

Secretary-General's bulletins

- ST/SGB/2008/5
- ST/SGB/2019/8

Staff Rules

- Rule 1.2(a)
- Rule 1.2(c)

Related Judgments and Orders

UNDT/2013/162

UNDT/2017/055

2015-UNAT-518

2017-UNAT-733

2010-UNAT-099

2011-UNAT-123

2010-UNAT-084

UNDT/2014/123

UNDT/2021/026

UNDT/2021/049