

UNDT/2022/126, Nderitu

UNAT Held or UNDT Pronouncements

The Tribunal found that there was ample justification for the decision maker's plausible conclusion that the Applicant breached his obligation to disclose an actual, or possible, conflict of interest. Although only evidence on a balance of probabilities was required, the evidence presented surpassed that standard and was clear and convincing.

The fact or possibility of such personal interest could impact negatively on the perception of integrity, independence and impartiality required of the Applicant as an international civil servant. The Applicant had a duty was to disclose the actual or possible conflict of interest. The failure to do so amounted to misconduct and breached the disclosure requirements set out in the regulatory framework.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's decision to impose on him the disciplinary measure of loss of one step in grade in accordance with staff rule 10.2(a)(ii).

Legal Principle(s)

Where termination might be the result, the proof that will be sufficient is clear and convincing evidence. In all other cases, the Respondent bears the burden of showing that there was a preponderance of evidence to establish the alleged misconduct

Outcome

Appeal dismissed on merits

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Nderitu

Entity

UNHCR

Case Number(s)

UNDT/NBI/2022/011

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 Nov 2022

Duty Judge

Judge Honeywell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Breach of duties of independence, neutrality, and impartiality

Procurement irregularities

Disciplinary matters / misconduct

Applicable Law

Staff Regulations

- Regulation 1.2(b)
- Regulation 1.2(m)

Staff Rules

- Rule 10.2(a)(ii)

Related Judgments and Orders

2019-UNAT-956

2020-UNAT-1024

2018-UNAT-859

2020-UNAT-1006

2011-UNAT-164

2013-UNAT-381

2019-UNAT-917

2019-UNAT-913

2010-UNAT-084

2014-UNAT-403

2014-UNAT-415

2012-UNAT-207

2012-UNAT-215