

2023-UNAT-1317, AAJ

UNAT Held or UNDT Pronouncements

The UNAT held that the complaint of sexual harassment filed by the staff member against her former supervisors (FRO and SRO) led to investigations whose reports were the basis for disciplinary processes and sanctions against both persons, as well as an additional administrative measure against her former SRO. The Administration acted promptly, when unofficially informed of the wrongdoing, by placing the staff member on certified sick leave for approximately two months, before reassigning her at her request to a new workplace. The letter informing her of the action taken also contained the acknowledgment of the reasons for her complaint with a quite detailed abstract of the findings of the investigation report, which the Appeals Tribunal considers good practice. In this context, the information provided seems to suffice.

The UNAT found that a decision to impose sanctions on her supervisors is not subject to challenge by the staff member, who was not directly affected by it. In this regard, harm to her mental well-being by the fact that she still meets her offender on a regular basis and has been a witness in an application filed by this person before the UNDT cannot be seen as a direct effect of the contested administrative decision, but rather an indirect consequence of it, therefore not challengeable under the internal justice system. The lack of details regarding the disciplinary measures and managerial action communicated to her did not render the information defective under Section 5.18(c) of ST/SGB/2008/5.

The UNAT noted that the UNDT had interpreted Section 5.18(c) of ST/SGB/2008/5 correctly when it concluded that the information provided to the staff member concerning the action taken, including the specificity of that information, met the requirements of that provision, and that the Administration's refusal to disclose the requested information was lawful.

The UNAT dismissed the appeal and affirmed Judgment No. UNDT/2021/165.

Decision Contested or Judgment/Order Appealed

A staff member contested several decisions or actions in relation to the Administration's handling of her complaint of sexual harassment by her former supervisors, in particular the decision not to provide information on the specific actions taken with respect to her former supervisors (her first reporting officer FRO and her second reporting officer SRO).

In Judgment No. UNDT/2021/165, the UNDT rejected the application.

The staff member appealed.

Legal Principle(s)

The special procedural provisions adopted by ST/SGB/2008/5 are purposely conceived to treat situations of discrimination, harassment, including sexual harassment, and abuse of authority with sensitivity and confidentiality in order to achieve the main objective of the bulletin, which advocates for dignified and respectful treatment of both the aggrieved individual and the alleged offender, together with the collective aim of maintaining a good working environment.

As a general principle, an affected individual may contest the outcome of an investigation.

Following the issuance of an investigative report under ST/SGB/2008/5, the responsible official has the options pursuant to Section 5.18 for (a) closing the case; (b) taking managerial action and follow-up measures; and (c) disciplinary action. For option (a), the aggrieved individual shall be provided with a summary of the findings and conclusion of the investigation, whereas options (b) and (c) require that the complainant be informed of the outcome of the investigation and of the action taken.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

AAJ

Entity

UNODC

Case Number(s)

2022-1671

Tribunal

UNAT

Registry

New York

Date of Judgement

10 Apr 2023

President Judge

Judge Halfeld

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Disciplinary measure or sanction
Fact-finding investigation
Discretionary authority
Disciplinary matters / misconduct
Investigation

Applicable Law

Administrative Instructions

- ST/AI/2008/5

Related Judgments and Orders

UNDT/2021/165
2016-UNAT-695
2018-UNAT-836
2017-UNAT-786
2014-UNAT-412
2014-UNAT-481
2015-UNAT-555