

# UNDT/2023/059, Antoine

## UNAT Held or UNDT Pronouncements

The Applicant was charged with two different counts of accusations:

- a. for having, on 21 May 2020, while in a United Nations vehicle clearly visible from a public street in Tel Aviv, Israel, held a female individual closely to his body while she was seated on his lap facing him and gyrating in a sexually suggestive manner; these events were captured in an 18-second video-clip, which was widely disseminated, bringing the Organization into disrepute (count one);
- b. for failure to cooperate with the OIOS investigations by refusing to provide OIOS with the contact details of a material witness and deleting data from his phone (count two).

On count one, the Tribunal observed that the facts were clearly demonstrated by the 18-second video-clip of the Applicant's behaviour. The Tribunal recalled that the Applicant admitted to be the person depicted in the video and that alone was sufficient to establish the facts. The Tribunal, thus, concluded that by engaging in activities of sexual nature in slow moving traffic in a public and well-illuminated street, in a clearly marked United Nations vehicle, the Applicant accepted the risk that passersby from the public may witness his activity, with an inevitable adverse reputational impact on the Organization. The Tribunal, therefore, concluded that the facts on which the disciplinary measure was based were established by clear and convincing evidence.

On count two, the Tribunal held that, based on the evidence on the record, the Applicant failed to provide the necessary information regarding a material witness to the Office of Internal Oversight Services. However, on the prong of deleting the data from his cell phone, the Tribunal concluded that there was no evidence of the alleged deletion of data from the device. Further, the Respondent did not indicate the kind of data he was looking for, nor did he establish the relevance of it for the present case.

Regarding misconduct, the Tribunal noted that by his activity performed in the United Nations car, the Applicant behaved in a manner that, not only put the Organization into disrepute and caused a huge damage to its image, but was contrary to the standard of integrity required to an international official, in violation of staff regulation 1.2(b). Accordingly, the Tribunal held that the Applicant engaged in a misconduct.

On the due process prong, the Tribunal concluded that the Applicant's due process rights were respected during the investigation and disciplinary process.

On whether the sanction was proportionate to the offence, the Tribunal found that the Applicant had displayed a lapse of integrity such that continuation of his employment relationship with the Organization could not be tolerated. His conduct went against the core values of the Organization. Therefore, the disciplinary measure imposed was not disproportionate.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to impose on him the disciplinary measure of dismissal, in accordance with staff rule 10.2(a)(ix).

## Legal Principle(s)

Pursuant to the jurisprudence of the Tribunal, the role of the UNDT in disciplinary cases is to perform a judicial review of the case and assess the following elements:

- i. Whether the facts were established by clear and convincing evidence;
- ii. Whether facts amount to misconduct;
- iii. Whether the staff member's due process rights were guaranteed during the entire proceeding; and
- iv. Whether the sanction is proportionate to the gravity of the offence.

## Outcome

Dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Antoine

## Entity

UNTSO

## Case Number(s)

UNDT/NBI/2022/059

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

21 Jun 2023

## Duty Judge

Judge Buffa

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary measure or sanction  
Disciplinary matters / misconduct

## Applicable Law

Staff Regulations

- Regulation 1.2(b)

Staff Rules

- Rule 10.2(a)(ix)

## Related Judgments and Orders

2010-UNAT-084

2014-UNAT-415

2014-UNAT-403

2013-UNAT-302

2020-UNAT-1024

UNDT/2021/151

2023-UNAT-1328

2023-UNAT-1330