

UNDT/2023/034, YAGOUT

UNAT Held or UNDT Pronouncements

There was clear and convincing evidence that the Applicant engaged in entitlement fraud and received reimbursement for medical services that had not occurred. He falsely certified and submitted three Cigna claims; for which he was paid a total of USD17,171.26. He was not entitled to this reimbursement. As UNDP is self-insured, these funds represented a loss to UNDP.

The Applicant's behaviour fell within what the UNDP Policy against Fraud and other Corrupt practices (approved in October 2018) defines as fraud. The established facts constituted misconduct.

As to proportionality of the disciplinary measure, the Tribunals have consistently ruled that misconduct involving intentional and deceptive conduct, particularly for personal gain, merit the most severe sanctions such as separation from service or dismissal.

The Applicant's due process rights were respected during the investigation and disciplinary process.

Legal Principle(s)

In reviewing a disciplinary measure, the Dispute Tribunal should determine: (a) whether the alleged facts have been established; (b) whether the established facts constitute misconduct; (c) whether the disciplinary measure is proportionate to the offence; and (d) whether due process was respected.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

YAGOUT

Entity

UNDP

Case Number(s)

UNDT/NBI/2022/066

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

25 May 2023

Duty Judge

Judge Buffa

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Fraud, misrepresentation and false certification

Disciplinary matters / misconduct

Applicable Law

Staff Rules

- Rule 10.2(a)(viii)

Related Judgments and Orders

2011-UNAT-164

2010-UNAT-098

2020-UNAT-982

2016-UNAT-634

2010-UNAT-018

UNDT/2021/064