

UNDT/2023/043, Reilly

UNAT Held or UNDT Pronouncements

The Applicant erred in her assessment that OIOS is not part of the Administration and that its decision does not constitute a final challengeable administrative decision. Indeed, OIOS is part of the Secretariat. It “operates under the authority” of the Secretary-General, albeit its operational “independence”. Accordingly, decisions made by OIOS can constitute, in fact, final administrative decision. The fact that the Applicant made two reports, namely one to OIOS and one to the Administration, did not create a duty on any other person or office to make a final decision, given that the applicable legal instrument clothes OIOS with the ultimate decision-making role in this regard, pursuant to sec. 5.1 of ST/AI/2017/1. Therefore, the Tribunal finds that email from OIOS was the final administrative decision that could be challenged. Furthermore, it is recognized that ST/AI/2017/1 is silent on the process to follow when the preliminary assessment of OIOS results in a decision not to investigate a report of possible prohibited conduct. However, given that even when a report is made to a responsible official said official must forward it to OIOS and acknowledge receipt of it, pursuant to sec. 5.4 of ST/SGB/2019/8, OIOS is the main actor at the point of receipt of a report, and the ultimate authority to decide which cases to consider and determine what action to take, if any. Considering the above, it is only logical that OIOS is the centre from which communication of its decision to the complainant must come. Consequently, the Tribunal finds that OIOS rightly communicated its administrative decision to the Applicant, and since no management evaluation request was sought within the prescribed time limit, the application is not receivable *ratione materiae*.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision not to take any action on her complaint of abuse of authority against the Executive Director and the Principal Registrar of the Office of Administration of Justice.

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Reilly

Entity

OHCHR

Case Number(s)

UNDT/GVA/2021/004

Tribunal

UNDT

Registry

Geneva

Date of Judgement

31 May 2023

Duty Judge

Judge Tibulya

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Notification

Fact-finding investigation

Time limit

Administrative decision

Investigation

Management Evaluation

Applicable Law

Secretary-General's bulletins

- ST/SGB/273
- ST/SGB/2019/8

Administrative Instructions

- ST/AI/2017/1

GA Resolutions

- A/RES/48/218B

Related Judgments and Orders

2011-UNAT-130

2012-UNAT-203