

UNDT/2023/026, Coleman

UNAT Held or UNDT Pronouncements

The Applicant claims that the preliminary assessment of her complaint was flawed, for not taking into consideration the totality of the evidence, and that OIAI was biased and applied an illusory standard to the level of gravity involved in the alleged harassment and abuse of authority.

However, notwithstanding the number of allegations made by the Applicant, the Tribunal notes that no evidence was provided to support a finding that the contested decision is illegal, unreasonable or improper, nor that the preliminary assessment was flawed.

On the contrary, it is clear that OIAI did in fact take into consideration the totality of the evidence, lawfully and reasonably concluding that her allegations were either unsubstantiated or not serious enough to rise to the level of misconduct. It is well within the discretionary authority of OIAI to weigh relevant and irrelevant evidence, and to decide on the level of gravity of the conduct investigated or assessed.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision of the Office of Internal Audit and Investigations (OIAI) to close her complaint of harassment and abuse of authority without a comprehensive investigation.

Legal Principle(s)

The Organization has a degree of discretion on how to conduct a review and assessment of a complaint of prohibited conduct and only in cases of a serious and reasonable accusation does a staff member have a right to an investigation against

another staff member, which may be the subject to judicial review.

A complaint must have “meaningful indicia” of “prohibited conduct”.

The complainant has the burden of satisfying the responsible official that there are sufficient grounds to warrant a formal fact-finding investigation.

Judicial review of an administrative decision involves a determination of the validity of the contested decision on grounds of legality, reasonableness and procedural fairness.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Coleman

Entity

UNICEF

Case Number(s)

UNDT/GVA/2021/063

Tribunal

UNDT

Registry

Geneva

Date of Judgement

28 Apr 2023

Duty Judge

Judge Bravo

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Disciplinary

Investigation

Burden of proof

Applicable Law

UNAT Statute

- Article 2.1(a)

UNDT Statute

- Article 8.1(a)

Staff Rules

- Rule 1.2(f)

UNICEF Executive Directives

- CF/EXD/2012-007

Other UN issuances (guidelines, policies etc.)

- UNICEF Policy on the Disciplinary Process and Measures
- POLICY/DHR/2020/001

Related Judgments and Orders

2015-UNAT-505

2013-UNAT-301

2010-UNAT-084

UNDT/2017/055

UNDT/2018/018

2018-UNAT-873

2014-UNAT-433

2015-UNAT-592

2010-UNAT-081

2012-UNAT-201

2015-UNAT-518/Corr.1