

UNDT/2023/120, Reilly

UNAT Held or UNDT Pronouncements

Although the complaint against the former High Commissioner was made under ST/SGB/2008/5, its investigation and the contested decision were undertaken under ST/SGB/2019/8 and ST/AI/2017/1, in keeping with sec. 8.3 of ST/SGB/2019/8.

The aspect of the application whose receivability the Respondent objected to relates to the way the Applicant's complaints of abuse of authority, which were laid under ST/SGB/2008/5 and ST/SGB/2019/8, were investigated. This fact brings that aspect of the application into the ambit of *Nwuke* 2010-UNAT-099. Consequently, the totality of the application is receivable *ratione materiae*.

Upon its examination of each of the Applicant's 25 arguments in support of her application, the Tribunal found that the decision to close without further action the Applicant's complaints against the former United Nations High Commissioner and the Chief, Human Rights Council Branch was lawful. In light of this finding, the Tribunal saw no ground to entertain the award of remedies in favour of the Applicant.

Decision Contested or Judgment/Order Appealed

The Applicant contested the way her complaints of harassment and abuse of authority against the former United Nations High Commissioner for Human Rights and the Chief, Human Rights Council Branch, were processed and the decision to close them without further action.

Legal Principle(s)

In determining the lawfulness of an administrative decision relating to an investigation of a complaint, the Tribunal may examine the propriety of the

procedural steps that preceded and informed the decision arrived at insofar as they might have impacted the final outcome.

In assessing the legality of the decision to close the Applicant's complaints with no further action, the Tribunal must examine whether the Administration breached its obligations pertaining to the review of the complaint and the investigation process that ensued, as set out primarily in the applicable Bulletins of the Secretary-General.

In cases of harassment and abuse of authority, the Tribunal is not vested with the authority to conduct a fresh investigation into the initial complaint. As in discretionary decisions of the Organization, it is not the Tribunal's role to substitute its own decision for that of the Administration.

The Tribunal may, however, consider whether relevant matters have been ignored and irrelevant matters considered, and examine whether the decision is absurd or perverse. If the Administration acts irrationally or unreasonably in reaching its decision, the Tribunal is obliged to strike it down. When it does that, it does not illegitimately substitute its decision for the decision of the Administration, it merely pronounces on the rationality of the contested decision.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Reilly

Entity

OHCHR

Case Number(s)

UNDT/GVA/2020/059

Tribunal

UNDT

Registry

Geneva

Date of Judgement

7 Nov 2023

Duty Judge

Judge Tibulya

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Investigation

Applicable Law

Administrative Instructions

- ST/AI/2017/1

Secretary-General's bulletins

- ST/SGB/2008/5
- ST/SGB/2005/21
- ST/SGB/2018/1
- ST/SGB/2019/8

Former Staff Regulations

- Regulation 1.2(i)
- Regulation 1.2(m)

Staff Regulations

- Regulation 1.2(o)

Staff Rules

- Rule 1.2(t)

UNDT RoP

- Article 27.1
- Article 27.2

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

2010-UNAT-084

2010-UNAT-099

2010-UNAT-100

2011-UNAT-123

2015-UNAT-505

2015-UNAT-518/Corr.1

2016-UNAT-626

2018-UNAT-873

2019-UNAT-961

2019-UNAT-969

2022-UNAT-1309

UNDT/2016/099

UNDT/2021/077

UNDT/2018/016 Corr.1

UNDT/2022/074

UNDT/2019/094

UNDT/2018/114