



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1234

Gabriel Vincent Branglidor

(Appellant)

v.

Secretary -General of the United Nations

(Respondent)

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge John Raymond Murphy Judge Dimitrios Raikos
Case No:	2021-1539
Date:	18 March 2022
Registrar:	Weicheng Lin

Counsel for Appellant: Gregory Thuan dit Dieudonne

Counsel for Respondent Rupa Mitra

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 202

14. On 4 June 2019 and 8 August 2019 respectively, Mr. Branglidor filed applications challenging the decisions to impose on him the disciplinary measure of separation from service (Case No. UNDT/NBI/2019/057) and a decision he characterized as the “failure in entitlements disbursements after separation from service” (Case No. UNDT/NBI/2019/117). By Order No. 142 (NBI/2019), the UNDT consolidated the two cases for adjudication in one judgment. Subsequently, upon a finding that gathering information relevant only to Case No. UNDT/NBI/2019/117 would delay the issuance of the UNDT Judgment, the case was severed by way of Order No. 027 (NBI/2021).

THE UNITED N

THE UNITED NATIONS APPEALS TRIBUNAL

Judgment No. 2022-UNAT

KB to obtain her student identity card for AMU. He has belatedly attempted to provide such an explanation for the first time on appeal by remarking that all the documents he provided to KB “could also be used for her registration at the IAU”. Even this attempt at an explanation, however, is phrased as a hypothetical one, and he does not actually state that he believed that KB had requested the documents for her to register at the IAU. Thus, Mr. Branglidor provides no additional element to sustain his appeal.

30. Mr. Branglidor

THE UNITED NATIONS APPEALS T

words, what the Appellant raises does not relate to a preliminary matter on appeal, but rather to the merits of the case.

37. This said, and in the interests of justice, the Appeals Tribunal will consider the issues wrongly raised by Mr. Branglidor under this heading. Mr. Branglidor claims that he was unfairly treated during the investigation phase. Firstly, he asserts that he was not assisted by a lawyer. Secondly, he contends that the investigation was biased, in that it exploited his vulnerability by

40. The e-mail of 9 May 2017 from the DoA/IAU does not detract from the UNDT's findings, nor does it constitute proof that the visit to the DoA/ IAU did not occur. It only refers to the DoA/IAU's embarrassment for having wrongly signed the documents attesting that KB had been a student at IAU in the academic year 20152016 without verifying the date correctly, whereas she had been a student at IAU the year before. This confusion was mentioned in the OIOS report³, and therefore Mr. Branglidor's contention that the OIOS report had not considered factual elements in his favour is without merit. Moreover, while the e-mail was specifically considered in the UNDT Judgment⁴, the visit on 10 April 2017 was confirmed by the DoA/IAU , which corresponds with Mr>-2.1 (o)2 (2.228-0 0 6.(gl)5.474 (l)5.4 (4 (6.1 (d i)123 (M)5

43. Still under the heading of alleged errors in procedure, Mr. Branglidor further claims that the UNDT did not rule on the issue of his self-representation before the UNDT, since OSLA had refused to provide him with a legal representative. This assertion is not correct, however, since the UNDT took note of this specific contention in its Judgment.⁷ In the present case, there is no evidence that i) Mr. Branglidor had submitted a request for OSLA assistance; ii) his possible submission had not received adequate consideration by OSLA, whose resources are not unlimited. In any circumstance, a request for assistance does not amount to a right to be represented by OSLA, as the Appeals Tribunal's jurisprudence has indicated⁸. Although not unfettered, OSLA has the discretionary power not to represent a person, and there is no indication that this exercise of discretion had been incorrect in the present case.

44. The appeal under the heading of alleged errors of procedure must fail.

Standard of review

45. The general standard of judicial review in disciplinary cases requires the UNDT to ascertain whether the facts on which a sanction is based have been established, whether the

52. Mr. Branglidor also insists on the controversy regarding the issue of the visit to the DoA/IAU in person in Aix -en-Provence, France, in April 2017 in order to obtain this official's

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59. With regard to the aggravating circumstances, Mr. Branglidor's claim is meritless, as no aggravating factor was considered to be found in this case. If the argument is that the sanction was too harsh because no aggravating factor was found, the Administration has broad discretion in determining the disciplinary measures imposed on staff members as a consequence of misconduct. The Administration is the best authority to select a satisfactory sanction within the limits stated by the respective norms, sufficient to prevent repetitive wrongdoing, punish the wrongdoer, satisfy victims and restore the administrative balance. Thus, in determining the proportionality of a sanction, the UNDT should observe a measure of deference, but more importantly, it must not be swayed by irrelevant factors or ignore relevant considerations.

60. The Organization also considered that there was no mitigating factor in the case. On appeal, Mr. Branglidor merely expresses his disapproval of the UNDT's conclusion, claiming that it failed to take into consideration a number of points which he contends were mitigating factors, namely that

THE UNITED NATIONS

Judgment

64. The appeal is rejected and Judgment No. UNDT/NBI/20 21/0 04 is affirmed.

Original and Authoritative Version: English

Dated this 18th day of March 2022.

(Signed)

Judge Halfeld, Presiding
Juiz de Fora, Brazil

(Signed)

Judge Murphy
Cape Town, South Africa

(Signed)

Judge Raikos
Athens, Greece

Entered in the Register on this 19th day of May 2022 in New York, United States.

(Signed)

Weicheng Lin, Registrar