
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2021/068

Judgment No.: UNDT/2022/111

Date: 10 October 2022

Original: English

Before: Judge Francesco Buffa

Registry: Nairobi

Registrar: Abena Kwakye-Berko

RAMOS PINTO SOARES

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for the Applicant:

Self-represented

Introduction

1. The Applicant, a Child Protection Officer at the United Nations Mission in South Sudan holding a fixed term appointment at the P-3 level and based in Juba, impugns

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discrimination, harassment, including sexual harassment and abuse of authority. In particular, that,

allegations of disrespectful behaviour, rude e-mails or derogatory comments may in some cases, reflect poor communication skills and insensitivity rather than amount to prohibited conduct/misconduct. However, such conduct in the context of work performance or work-related issues may, in some cases, amount to harassment. Certain incidents, when viewed as isolated events could be regarded as purely work-related issues. However, a series of such incidents, taken together, may warrant investigation.

Among the examples of conduct listed in the Guidelines are (i) not keeping the affected individual informed while other members of the team are kept informed, (ii) bypassing the affected individual and giving instructions directly to supervisees.

18. The Applicant submits that her complaint details incidents showing that she repeatedly endured, among others, the very conduct listed as examples of probable harassment.

19. The Applicant argues that it is unreasonable for the responsible official to determine that her complaint could be handled through informal resolution when

22. The Respondent submits that the application is time-barred. The Applicant requested management evaluation on 15 February 2021. In accordance with staff rule 11.2(d), the management evaluation was due within 45 calendar days of the

29. -day filing deadline with the Dispute Tribunal expired on 30 June 2021.

30. The Tribunal is well aware that in general MEU does not have the authority to hold requests for management evaluation in abeyance or to waive its deadlines for completing a management evaluation (*see Dieng 2019-UNAT-941, para. 38*) and that only the Secretary-

by the Office of the Ombudsman that the informal resolution process had not been successful; and then again when the Applicant received the outcome of her management evaluation request on 9 July 2021.

37. Therefore, the application was not barred by the statute of limitations.

Merits

38. The substantive question before the Tribunal is whether the responsible official acted lawfully and properly in his treatment of the Applicant.

39. In undertaking a preliminary assessment of a report of unsatisfactory conduct, the Responsible Official may consider the following factors: (a) whether the allegations of unsatisfactory conduct could amount to misconduct; (b) whether the provision of the information of unsatisfactory conduct is made in good faith and is sufficiently detailed that it may form the basis for an investigation; (c) whether there is a likelihood that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case; and (d) whether an informal resolution process would be more appropriate in the circumstances.¹

40. As explained in *Benfield-Laporte* UNDT/2013/162, it is the responsible

47. The record shows indeed ,
without any abuse of authority (following the definition in ST/SGB/2008/5) or
mistreatment of the Applicant, and that the

Okwir UNDT/2021/026. See also *Fosse*
UNDT/2021/049).

48. eement on work
performance or on other work-related issues is normally not considered prohibited
conduct and is not dealt with under the provisions of the present bulletin but in the

49. In this regard staff rule 1.2(a) provides that staff members shall follow the
directions and instructions properly issued by the Secretary-General and by their
supervisors. Staff regulation 1.2(c) provides that the Secretary-General has broad
discretion to assign staff to different functions as he deems appropriate. A mere
disagreement between staff members in a supervisory relationship does not, in and
of itself, give rise to cause for an investigation

50.
would reveal sufficient evidence to further pursue the matter as a disciplinary case
(section 5.5 (c) of ST/AI/2017/1) was therefore not unlawful and instead it was

discretion in accordance with ST/AI/2017/1.

Conclusion

51.

(Signed)

Judge Francesco Buffa

Dated this 10th day of October 2022

Entered in the Register on this 10th day of October 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi