



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2023-UNAT-1382

**Flamur Kazazi
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

| | |
|----------------------|----------------------------------------------------------------------------------------|
| Before: | Judge Kanwaldeep Sandhu, Presiding Judge Nassib G. Ziadé Judge Leslie F. Forbang |
| Case No.: | 2022-1753 |
| Date of Decision: | 27 October 2023 |
| Date of Publication: | 20 November 2023 |
| Registrar: | Juliet E. Johnson |

Counsel for Appellant: Sètondji Roland Adjovi

Counsel for Respondent: Patricia C. Aragonés

JUDGE KANWALDEEP SANDHU, PRESIDING.

1. Mr. Flamur Kazazi, a former staff member of the United Nations-African Union Mission in Darfur (UNAMID), contested the decision of the Administration to impose on him the disciplinary measure of separation from service, with compensation in lieu of notice and without termination indemnity, in accordance with Staff Rule 10.2(a)(viii)¹ and to include his name in the ClearCheck database (contested decision). Mr. Kazazi was found to have committed misconduct by sexually harassing VO1 and VO2 due to inappropriate comments he made to them at social functions.
2. By Judgment No. UNDT/2022/087² (impugned Judgment), the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) dismissed Mr. Kazazi's application for lack of merit.
3. Mr. Kazazi appeals and for the reasons set out below, the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) dismisses the appeal and affirms the impugned Judgment.

Facts and Procedure

4. In 2009, Mr. Kazazi joined the Organization as a Claims Assistant, Grade FS-4, in the Property Management Section of UNAMID. At the time of his separation from service, he still held that position.³
5. On 12 October 2019, the UNAMID Conduct and Discipline Team (CDT) received an e-mail from VO1, a United Nations consultant, in which she alleged that, on 10 October 2019, Mr. Kazazi had "sexually assaulted" her.⁴
6. On 14 October 2019, VO2, a United Nations staff member, also reported in person to the CDT that Mr. Kazazi had sexually harassed her on 10 October 2019.⁵ On 17 October 2019, the CDT (namely Mr. A.K. and Mr. K.G.) interviewed Mr. Kazazi.⁶

¹ Secretary-General's Bulletin ST/SGB/2018/1 (Staff Regulations and Rules of the United Nations).

² *Kazazi v. Secretary-General of the United Nations*, Judgment No. UNDT/2022/087.

³ Sanction letter dated 1 September 2021.

⁴ Investigation Report, para. 13.

⁵ *Ibid.*, para. 21.

⁶ *Ibid.*, para. 64.

7. In the days following the complaints against Mr. Kazazi, the Office of Internal Oversight Services (OIOS) opened an investigation. On 28 January 2020, the OIOS investigators interviewed Mr. Kazazi.⁷

8. On 22 June 2020, OIOS issued its Investigation Report in which it considered that VO1 and VO2's allegations were substantiated and partly corroborated by Lieutenant Colonel A.D. as well as by WO1, the boyfriend of VO2. It recommended that the UNAMID Office of Human Resources (OHR) take appropriate action based on the Investigation Report.⁸

9. On 19 January 2021, the Director, Administrative Law Division, OHR (Director ALD/OHR) informed Mr. Kazazi by memorandum that, on the basis of the evidence and findings contained in the Investigation Report, the following formal allegations of misconduct were issued against him:⁹

- On 23 or 27 September 2019, he referred to VO1 as “a hottie” and suggested that she should come back to his residence;
- At a party in September 2019, he mimicked the clothing worn by VO1 by raising his t-shirt and stating words to the effect that he also had a “sexy” stomach;
- At a party on 10 October 2019, he told VO1 a joke of a sexual nature. The essence of the joke was that a man expressed interest in a woman, and when she responded that her heart was already taken, the man said that she had other organs;
- At the same party in October 2019, he said to VO1 “I will masturbate for you tonight”. VO1 was offended by this comment;
- Also at the same party, he told a joke of a sexual nature to VO2 referring to a woman opening her legs; and
- At the same party, he said to VO2 “I wish I had tits like yours” and then tried to claim that he had said “I wish I looked like you” in order to cover up what he had in fact said. VO2 was offended by his comment.

10. The 19 January 2021 memorandum also specified that if established, his conduct would constitute harassment and/or sexual harassment. Mr. Kazazi was requested to provide his written comments on the factual findings, which he did on 22 March 2021.¹⁰

⁷ *Ibid.*, para. 68.

⁸ *Ibid.*, paras. 43-52 and 79-80.

⁹ Memorandum of allegations of misconduct dated 19 January 2021, para. 25.

¹⁰ *Ibid.*, para. 27.

11. On 1 September 2021, Mr. Kazazi was informed by letter from the Assistant Secretary-General for OHR (ASG/OHR) of the decision of the Under-Secretary-General for Management Strategy, Policy and Compliance (USG/DMSPC) that the allegations against him had been established by clear and convincing evidence and that his actions constituted serious misconduct in respect of which the disciplinary measure of separation from service, with compensation in lieu of notice and without termination indemnity was imposed in accordance with Staff Rule 10.2(a)(viii) as well as the placement of his name in the ClearCheck database. The letter also provided that:¹¹

The Under-Secretary-General has noted that you were accorded a fair procedure during the investigation and disciplinary process. In particular: (a) you were interviewed in connection with the investigation; (b) you were informed of the allegations against you and provided with the underlying materials on which the allegations were based; (c) you were afforded two extensions of time in which to submit your comments on the allegations against you; and (d) the comments that you provided were duly considered.

In determining the appropriate sanction, the Under-Secretary-General has considered the nature of your actions, the past practice of the Organization in matters of comparable misconduct as well as whether any mitigating or aggravating factors are applicable to your case.

The Under-Secretary-General has considered that the aggravating circumstances in your case are that your conduct concerned two staff members, VO1 and VO2, and that there were multiple incidents of sexual harassment over a period of approximately one month. Further, the nature of the inappropriate comments to VO1 and VO2 may be regarded as highly offensive. As a mitigating circumstance, the Under-Secretary-General has considered your more than ten-year-long service to the Organization, including in a difficult mission-setting. The Under-Secretary-General has considered that the aggravating circumstances outweigh the mitigating circumstance.

12. On 26 November 2021, Mr. Kazazi filed an application with the Dispute Tribunal challenging the contested decision.

Impugned Judgment and Orders

13. On 27 July 2021, following a case management discussion (CMD), the UNDT issued Order No. 90 (NBI/2022) in which it concluded that only five (out of the 14) witnesses included in Mr. Kazazi's proposed list of witnesses would assist it in its determination of the issues in the case. Therefore, in the interest of fairly and expeditiously disposing of the case, the UNDT decided that

¹¹ Sanction letter dated 1 September 2021.

only Mr. Kazazi, VO1, VO2, Mr. M.W., the OIOS Chief Resident Investigator, and Mr. B.G., a friend of Mr. Kazazi who attended the 10 October 2019 party, would testify before it.

14. On 28 July 2022, Mr. Kazazi filed an appeal of Order No. 90 (NBI/2022) with the Appeals Tribunal (Case No. 2022-1715).¹²

15. On 29 July 2022, Mr. Kazazi also filed a motion seeking to suspend the UNDT proceedings pending the outcome of his appeal in Case No. 2022-1715. On 3 August 2022, the UNDT issued Order No. 099 (NBI/2022) in which it rejected Mr. Kazazi's motion.

16. On 10, 11 and 22 August 2022, the UNDT held a hearing on the merits. During the 10 and 11 August 2022 hearing, Mr. Kazazi, VO1, VO2, Mr. B.G. and Mr. M.W. testified. At the end of the 11 August 2022 hearing, Mr. Kazazi requested production of additional documents and calling of additional witnesses, namely Mr. R.K., a friend of his who attended the 10 October 2019 party, Mr. B.S., Director, OIOS Investigation Division, and Mr. S.M., Chief UNAMID CDT.¹³ On 12 August 2022, the UNDT issued Order No. 113 (NBI/2022) in which it granted his motion, “[c]onsidering that [Mr. Kazazi]’s motion [fell] squarely within case management authority of [the UNDT] regarding evidence, procedure and trial conduct, and based on the progress of [the] case”.

17. On 22 August 2022, Mr. R.K., Mr. S.M. and Mr. B.S. testified before the UNDT. At the end of the hearing, Mr. Kazazi again requested production of additional documents and calling of additional witnesses. On 26 August 2022, the UNDT issued Orders No. 118 (NBI/2022) and 119 (NBI/2022), in which it rejected Mr. Kazazi's motions. In particular, with regard to Mr. Kazazi's request to call additional witnesses, the UNDT observed that the additional witnesses were not included in his initial proposed list of witnesses and that he had not fully demonstrated the probative value of their testimonies.

18. In the impugned Judgment of 22 September 2022, the Dispute Tribunal dismissed Mr. Kazazi's application. The UNDT found that the facts with regard to the event that occurred on 23 or 27 September 2019, where Mr. Kazazi allegedly referred to VO1 as “a hottie” and suggested that she should come back to his home, were established by clear and convincing evidence. The UNDT believed VO1's testimony and held that “since the comment was directed to VO1 who was with [him] in his car, there [was] no possibility that she misheard or misunderstood him”,

¹² This appeal was subsequently withdrawn. See *Kazazi v. Secretary-General of the United Nations*, Order No. 503 (2023).

¹³ These are three witnesses that were on Mr. Kazazi's initial proposed list of witnesses.

especially as she had no ulterior motive to lie.¹⁴ It further observed that Mr. Kazazi's testimony according to which he "said that he was going to take her home, but instead stopped her at his place and she walked to her home" contradicted his denial that he invited her to his place.¹⁵

19. With regard to the other events,¹⁶ the UNDT found that they were also established by clear and convincing evidence. The UNDT found that the evidence suggested that Mr. B.G. and Mr. R.K.'s close friendship with Mr. Kazazi "compromised their impartiality and affected their credibility". Therefore, it found that their denials did not affect the credibility of VO1 and VO2, "especially since VO1 and VO2 had no ulterior motive in testifying against [Mr. Kazazi]".¹⁷ In particular, contrary to Mr. Kazazi's submission, the UNDT concluded that VO1 did not intend to lie with regard to the reason why she left the 10 October 2019 party.¹⁸

20. With regard to the events that occurred during the 10 October 2019 party, the UNDT took into consideration the fact that on that same evening, VO1 explicitly asked Mr. R.K. by WhatsApp messages what Mr. Kazazi's full name was because she wanted to "report him for sexually harassing [her] [as] he [was] a terrible person and shouldn't be part of the [United Nations]". The UNDT observed that the fact that Mr. R.K. did not dispute the existence of the WhatsApp messages, as well as the fact that he asked to meet VO1 and insisted that she should not report Mr. Kazazi, "discredit[ed] his explanation that he did not know what had happened". The UNDT also found that the fact that Mr. R.K. admitted that VO1 misspelled Mr. Kazazi's name in their WhatsApp exchange discredited his argument that she already knew how to spell his full name.¹⁹

21. The UNDT concluded that Mr. Kazazi's acts constituted sexual harassment, pursuant to Section 1.5 of Secretary-General's Bulletin ST/SGB/2019/8 (Addressing discrimination,

¹⁴ Impugned Judgment, para. 12. See also Hearing transcript, 10 August 2022, Mr. Kazazi's testimony, p. 10: 9-10 and 16-17 and Hearing transcript, 11 August 2022, VO1's testimony, p. 37: 19-25 and p. 38: 1-2.

¹⁵ *Ibid.*, para. 13. See also Hearing transcript, 10 August 2022, Mr. Kazazi's testimony, p. 10: 10-15 and 20-23.

¹⁶ *Ibid.*, paras. 11b) to 11f).

¹⁷ *Ibid.*, paras. 14-15 and 19. See also Hearing transcript, 11 August 2022, Mr. B.G.'s testimony, p. 13: 9-16, p. 20: 5-23, p. 21: 11-16 and p. 22: 10-14 and Hearing transcript, 22 August 2022, Mr. R.K.'s testimony, p.14: 6-18, p. 23: 5-20, p. 27: 17-18 and p. 36: 4-6.

¹⁸ *Ibid.*, para. 20. See also Hearing transcript, 11 August 2022, VO1's testimony, p. 54: 23-25 and p. 55: 1-16.

¹⁹ *Ibid.*, paras. 16-17. See also Memorandum of allegations of misconduct dated 19 January 2021 and Hearing transcript, 22 August 2022, Mr. R.K.'s testimony, p. 28: 3-25, p. 29: 8-11, p. 30: 2-17, 21-25, p. 31: 1-4, 17-19, p. 39: 22-25, p. 42: 11-25, p. 43: 1-16 and p. 44: 6-16.

harassment, including sexual harassment, and abuse of authority) because they: i) were unwelcome; ii) were of a sexual nature; and iii) might reasonably be expected or be perceived to cause offence or humiliation. In particular, the UNDT stressed that, pursuant to Section 1.7 of this Bulletin, the perspective of the person who is targeted shall be considered and that, in the present case, Mr. Kazazi's acts undeniably caused discomfort to VO1 and VO2. The UNDT also observed that his multiple acts towards VO1 and VO2 showed a "pattern of conduct".²⁰

22. Furthermore, with regard to the fact that Mr. Kazazi "seems to question the categorization of his actions and utterances which he maintains were meant to have been jokes, as sexual harassment", the UNDT recalled that Appeals Tribunal jurisprudence has "clarified that verbal or physical conduct or gestures of a sexual nature may constitute sexual harassment and that the perpetrator does not have to be aware of the offending character of his or her behavior".²¹

23. Consequently, the UNDT held that pursuant to Staff Regulation 1.2(a), (f), Staff Rule 1.2(f) and ST/SGB/2019/8, these acts were unlawful and amounted to misconduct.

24. Next, the UNDT examined Mr. Kazazi's submissions that his due process rights were violated during the investigation and the disciplinary process.

25. The UNDT held that, contrary to Mr. Kazazi's assertion, his presumption of innocence was not violated when, on 13 October 2019, Mr. S.M. sent an e-mail to Mr. M.W. requesting an investigation following an "interview" with VO1 and assessing (without indicating that his assessment was conclusive) that there were "repeated instances of unwelcome sexual advances which if investigated [would be] likely to substantiate as sexual harassment in violation of Section 1.5 of ST/SGB/2019/8".²²

26. Then, relying on Mr. S.M.'s testimony, the UNDT concluded that the "interview" conducted by the CDT was not an investigative interview, in accordance with Section 6 of Administrative Instruction ST/AI/2017/1 (Unsatisfactory conduct, investigations and the disciplinary process), because the CDT's role was only one of the "conduit[s] through which complaints go to OIOS".²³

²⁰ *Ibid.*, para. 33.

²¹ *Ibid.*, paras. 22-31. See also *Andry Adriantsehn v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1146/Corr.1, para. 44.

²² *Ibid.*, paras. 35-37. See also e-mail exchange of October 2019 between the Administration and OIOS and Hearing transcript, 22 August 2022, Mr. S.M.'s testimony, p. 55: 2-11 and p. 65: 19-20.

²³ *Ibid.*, paras. 38-39. See also Hearing transcript, 22 August 2022, Mr. S.M.'s testimony, p. 52: 6-21, p. 53: 15-20, p. 54: 4-19 and p. 61: 5-12.

27. The UNDT concluded that the fact that OIOS had interviewed some witnesses (namely Captain J.V., Captain E.Z. and Major S.C.) and concluded that they were present at the party of 10 October 2019 but did not witness any inappropriate comments from Mr. Kazazi or reactions from VO1 and VO2 does not give their testimonies exculpatory relevance.²⁴

28. The UNDT found that the investigator's assessment of the witnesses' credibility was not biased and that the sanction letter dated 1 September 2021 did not demonstrate a biased and racist position taken against Mr. Kazazi. On the contrary, the UNDT noted that it "formed views similar to those expressed in the sanction letter", i.e., that Mr. Kazazi had no credibility and that his close friendship with Mr. B.G. and Mr. R.K. had compromised their impartiality and credibility.²⁵

29. Also, because Mr. Kazazi admitted that he was provided by OIOS the missing minutes from the audio-recording of VO2's interview, the UNDT found that his further assertions on this issue were without merit. The UNDT also found that Mr. Kazazi did not demonstrate that this complete version of VO2's testimony was not in the hands of the ALD/OHR at the time of issuing the 19 January 2021 and 1 September 2021 letters.²⁶

30. The UNDT considered Mr. Kazazi's argument that his due process rights were violated because the 1 September 2021 letter was signed by the Director ALD/OHR without any delegation of authority to do so, in contravention of Section 8 of ST/AI/2017/1. It concluded that this Administrative Instruction provides that "the ASG/OHR decides whether to initiate a disciplinary process by issuing written allegations (...) [and that] this is what occurred [in the present case]; the ASG/OHR decided to issue allegations and authorised the [Director of] ALD/OHR to do so by e-mail".²⁷

31. Therefore, the UNDT concluded that Mr. Kazazi's due process rights were respected as he was interviewed, provided with an audio-recording of the interview as well as all supporting evidence, informed of the allegations raised against him, afforded his right to seek the assistance of counsel, provided the opportunity to comment on those allegations and had his comments duly considered.²⁸

²⁴ *Ibid.*, paras. 40-41. See also Investigation Report, paras. 62-63.

²⁵ *Ibid.*, paras. 42-43.

²⁶ *Ibid.*, paras. 44-45.

²⁷ *Ibid.*, para. 46.

²⁸ *Ibid.*, para. 47.

32. Finally, the UNDT found that the sanction was proportionate to the gravity of Mr. Kazazi's misconduct. The UNDT observed that the sanction was in accordance with the past practice of the Secretary-General in similar cases and was not the most severe sanction available. It further noted that the Secretary-General correctly took into consideration aggravating (he committed multiple acts of a sexual nature which affected two persons over a period of approximately one month) as well as mitigating factors (he worked for over 10 years in a difficult mission-setting).²⁹

33. The UNDT thus concluded that none of the remedies sought by Mr. Kazazi, including his request for referral of the CDT and OIOS for accountability, were tenable.³⁰

Submissions

Mr. Kazazi's Appeal

34. Mr. Kazazi requests that the Appeals Tribunal rescind the contested decision and reappoint him "to a suitable position commensurate with his skillsets" pursuant to Article 9(1)(a) of the Appeal Tribunal Statute (the Statute). As an alternative to rescission, he requests that the Appeals Tribunal set the compensation that the Secretary-General may elect to pay to three years of salary and related pension contributions. Indeed, he submits that he meets the exceptional circumstances required to award him more than the maximum of two years' compensation. Moreover, he also requests the removal of his name from the ClearCheck database as well as compensation for harm for the damage to his career and self-respect pursuant to Article 9(1)(b) of the Statute. Last, he requests that Mr. B.S, Mr. S.M. and Mr. M.W. be referred to the Secretary-General for enforcement of accountability in accordance with Article 9(5) of the Statute.

35. Alternatively, he requests that the impugned Judgment "be set aside and remanded to the UNDT for additional findings of fact in front of a new judge".

36. With regard to the impugned Judgment, Mr. Kazazi submits that the Dispute Tribunal erred in procedure, fact, and law in dismissing his application.

²⁹ *Ibid.*, paras. 48-50.

³⁰ *Ibid.*, para. 51.

37. Mr. Kazazi submits that the UNDT committed an error in procedure when it issued Orders Nos. 90 (NBI/2022), 118 (NBI/2022) and 119 (NBI/2022) and denied his multiple requests to call witnesses and to submit additional documentary evidence.

38. He also argues that the UNDT erred on several questions of fact when it concluded that his due process rights were not violated during the investigation process.

39. Mr. Kazazi contends that the UNDT erred in fact when it found that, on or about 23 or 27 September 2019, he referred to VO1 as “a hottie” in his car. Indeed, referring to the 13 October 2019 CDT Note to File (NTF) summarizing VO1’s statement, he contends that it was established that the alleged event took place on 26 September 2019 and that VO1 stated that it took place outside of his car.³¹

40. He submits that the UNDT erred in fact, “selectively picked and chose evidence and ignored other contradictory evidence” when it found that, on that same date, he suggested to VO1 that she should come back to his place. Indeed, Mr. Kazazi submits that this finding “abusively ignored” the fact that his home was 30 meters apart from VO1’s place and that there was therefore “nothing nefarious in (...) [him] parking in his normal parking position (...) and then to allow VO1 to walk the very short distance to her place through the myriad of alleys and courtyards to her accommodations in the center of the block, which were not accessible by road”.³²

41. Mr. Kazazi contends that the UNDT, “desperate to support the allegations of VO1 and VO2”, misrepresented the facts and concluded that according to VO1 *and* VO2, Mr. B.G. and Mr. R.K. had witnessed some of the alleged acts of misconduct.³³ Indeed, he stresses that both VO1 and VO2 testified that they did not see anything that supported each other’s testimonies and that VO2 only testified that Mr. B.G. (and not Mr. R.K.) had witnessed the events related to her.³⁴

42. He submits that the UNDT’s assessment of credibility was “biased, unfair and not supported by evidence”, especially when it found that his close friendship with Mr. B.G. and Mr. R.K. compromised their impartiality and affected their credibility.³⁵ He also contends that the UNDT erred when it found that VO1’s testimony was credible despite her multiple lies, especially

³¹ *Ibid.*, para. 12. See also NTF dated 13 October 2019, para. 4a).

³² *Ibid.*, para. 13. See also Hearing transcript, 10 August 2022, VO1’s testimony, p. 10: 9-15.

³³ Emphasis added.

³⁴ *Ibid.*, para. 14. See also Hearing transcript, 10 August 2022, VO2’s testimony, p. 47: 12-14.

³⁵ *Ibid.*, para. 15.

when it believed her explanation that she did not intend to tell lies about the reason why she left the 10 October 2019 party.³⁶

43. Last, Mr. Kazazi submits that the UNDT erred when it found that the allegations of misconduct were established by clear and convincing evidence. Indeed, he submits that the UNDT erroneously relied solely on VO1 and VO2's testimonies, without providing an analysis of VO2's testimony and despite the fact that there was no evidence supporting their allegations or corroboration between their stories. On the contrary, "there were witnesses that contradicted their allegations". He also argues that the UNDT, when it found that VO1 and VO2 had no ulterior motive in testifying against him, ignored the possible reasons he provided in his closing submissions.³⁷ Moreover, Mr. Kazazi reiterates that the UNDT erroneously denigrated his credibility as well as the credibility of Mr. R.K. and B.G., without demonstrating that they lied. He further submits that the UNDT's finding that Mr. B.G. was his friend was not a basis to conclude that he had no credibility.

Additional pleadings

44. Mr. Kazazi requests, *inter alia*, the Appeals Tribunal to "take judicial notice" of AAN.³⁸ Indeed, he observes that AAN was published on 31 July 2023 and that he was consequently unable to cite it in his appeal. He further notes that in AAN, a staff member was given a "lesser sanction" of separation from service, with compensation in lieu of notice, and *with* termination indemnity for sexual harassment and sexual assault, a "far greater egregious conduct than attributed to [him]".³⁹ Relying on the principle of equality of treatment,⁴⁰ Mr. Kazazi submits that "where staff members commit the same or broadly similar offences, in general, the penalty should be the same; not necessarily identical but within a very narrow range of appropriateness".

45. Therefore, to be consistent with AAN, if the UNAT were to consider that the alleged misconduct was established despite his appeal, Mr. Kazazi requests that the Appeals Tribunal modify the disciplinary sanction to include the termination indemnity.

³⁶ *Ibid.*, para. 20.

³⁷ *Ibid.*, para. 19.

³⁸ *AAN v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1366.

³⁹ Emphasis added.

⁴⁰ *Balint Szvetko v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1311.

The Secretary-General's Answer

46. The Secretary-General requests that the Appeals Tribunal dismiss the appeal.

47. The Secretary-General submits that the UNDT correctly determined that the imposed disciplinary sanction was lawful and that Mr. Kazazi failed to establish any errors warranting reversal of the impugned Judgment.⁴¹

48. The Secretary-General contends that the UNDT did not commit an error in procedure by issuing Orders Nos. 90 (NBI/2022), 118 (NBI/2022) and 119 (NBI/2022). Indeed, the Secretary-General argues that pursuant to Articles 17(6) and 18 of the Dispute Tribunal Rules of Procedure (UNDT Rules), it was within the UNDT's discretion to decide whether or not the presence of witnesses was required.

49. Also, the Secretary-General submits that the UNDT did not commit an error of fact, resulting in a manifestly unreasonable decision, when it concluded that Mr. Kazazi's due process rights had been respected. The Secretary-General observes that Mr. Kazazi's arguments with regard to the investigation are largely a repetition of the ones that he made before the Dispute Tribunal and disregard the testimonies of Mr. S.M., Mr. B.S. and Mr. M.W. However, the Secretary-General recalls that Mr. Kazazi's disagreement with their testimonies is not sufficient to establish a reversible error by the Dispute Tribunal.

50. Further, the Secretary-General submits that the UNDT did not commit reversible errors of fact, resulting in a manifestly unreasonable decision in paragraphs 12 to 15 of the impugned Judgment. In any event, even if there were some errors in the UNDT's findings, the Secretary-General submits that none of them resulted in a manifestly unreasonable decision given the "totality of the clear and convincing evidence".

51. In particular, with regard to the fact that on or about 23 or 27 September 2019, Mr. Kazazi referred to VO1 as "a hottie" in his car, the Secretary-General observes that VO1 stated to OIOS that Mr. Kazazi made that comment twice, outside and inside of his car, and the fact that she did not repeat it before the UNDT does not undermine the UNDT's finding that the event happened or the credibility of her testimony. Moreover, the Secretary-General contends that the UNDT correctly concluded that on that same date, Mr. Kazazi suggested to VO1 that she should come back to his

⁴¹ The Secretary-General notes that Mr. Kazazi does not contest the UNDT's finding that the sanction was proportionate.

place and that his submissions to the contrary ignore both his and VO1's statements to OIOS. The Secretary-General also argues that Mr. Kazazi's submission that the UNDT erred when it found that VO1 and VO2 both stated that Mr. B.G. and Mr. R.K. had witnessed Mr. Kazazi's acts at the 10 October 2019 party "misconstrues" the impugned Judgment and is "inconsequential".⁴² Finally, the Secretary-General contends that Mr. Kazazi failed to establish how the UNDT erred in its assessment of Mr. B.G. and Mr. R.K.'s credibility and that he erroneously construes its assessment "as having been based only on their friendship".

52. Last, the Secretary-General submits that the UNDT did not commit a reversible error of fact, resulting in a manifestly unreasonable decision, when it found that the Administration had established by clear and convincing evidence that Mr. Kazazi had sexually harassed VO1 and VO2.

53. Therefore, the Secretary-General contends that the testimonies of VO1 and VO2 were "each, separately and jointly, sufficient to uphold the [impugned] Judgment" and that the UNDT did not err when it found that Mr. B.G. and Mr. R.K.'s close friendship with Mr. Kazazi compromised their impartiality and affected their credibility.

Comments on additional pleadings

54. The Secretary-General requests the Appeals Tribunal to disregard Mr. Kazazi's additional pleadings on AAN. He reiterates that Mr. Kazazi's additional pleadings on AAN are submissions on the proportionality of the disciplinary measure imposed, which were not initially challenged by him before the UNAT and should be dismissed on this basis alone.

55. In any event, the Secretary-General submits that the disciplinary measure imposed on Mr. Kazazi is proportional and should be confirmed by the Appeals Tribunal. Indeed, recalling the broad discretion of the Administration in determining the appropriate disciplinary measure, the Secretary-General contends that the Appeals Tribunal (and the Dispute Tribunal) will only overturn a disciplinary measure as disproportionate if it finds it to be excessive, unreasonable, illegal, or disproportionate and not "only because the judges would have come to a different conclusion".⁴³ Moreover, the Secretary-General observes that the recent practice and

⁴² Emphasis added.

⁴³ *Appellant v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1216, paras. 45 and 58; *Portillo Moya v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-523, paras. 19-21.

jurisprudence confirmed that separation from service is a proportionate sanction for sexual harassment.⁴⁴

56. In the present case, the Secretary-General contends that the Dispute Tribunal correctly analyzed and affirmed the disciplinary sanction of separation from service with compensation in lieu of notice and without termination indemnity in accordance with the practice of the Secretary-General in similar cases and the policies of the Organization.

57. The Secretary-General notes that the United Nations has a zero-tolerance policy for sexual harassment and that Mr. Kazazi's disciplinary measure was not the strictest sanction available. Therefore, the Secretary-General submits that a modification of the disciplinary sanction by the UNAT would be "unreasonable" and "send a signal that the Organization is condoning sexual harassment", in particular because Mr. Kazazi sexually harassed two women on seven separate occasions over a period of one month.

58. Last, relying on *Szvetko*,⁴⁵ the Secretary-General contends that the principle of equality of treatment does not mean that the same disciplinary measure should be imposed in all cases of sexual harassment. On the contrary, the Secretary-General submits that it is the role of the Administration to determine which disciplinary measure to impose based on the unique set of factors present in each case. In the present case, the Secretary-General argues that the context, the nature of the acts of sexual harassment, the number of acts, the duration of the misconduct and the aggravating circumstances considered were different than in *AAN*.

Considerations

59. The main issue for determination in the present appeal is whether the UNDT erred in procedure, such as to affect the decision of the case, and erred in law or in fact, resulting in a manifestly unreasonable decision, when it dismissed Mr. Kazazi's challenge to the contested decision.

60. The contested decision was the outcome of complaints filed by VO1 and VO2 that Mr. Kazazi made inappropriate comments that were of a sexual nature in social settings that

⁴⁴ *Balint Szvetko* Judgment, *op. cit.*, para. 58.

⁴⁵ *Ibid.*, para. 57.

amounted to sexual harassment. OIOS undertook an investigation which led to the finding that Mr. Kazazi had engaged in the prohibited conduct.

61. Staff Rule 1.2(f) stipulates that “[a]ny form of discrimination or harassment, including sexual or gender harassment, as well as abuse in any form at the workplace or in connection with work, is prohibited”.

Procedures before the Dispute Tribunal

62. Under Article 2(1)(d) of its Statute, the Appeals Tribunal is competent to hear and pass judgment on an appeal filed against a judgment rendered by the Dispute Tribunal in which it is asserted that the latter has committed an error in procedure, such as to affect the decision of the case. Therefore, in order to be successful on appeal, a party not only has to assert and show that the Dispute Tribunal committed an error in procedure but also that this error affected the decision of the case.

63. With regard to Order No. 90 (NBI/2022), Mr. Kazazi argues that the UNDT’s refusal to hear all his witnesses was procedurally wrong and unfair. That Order was partially cured by Order No. 113 (NBI/2022) in which three of his witnesses were allowed to testify. However, Mr. Kazazi contends that his other witnesses were also essential to impugn VO1’s testimony. He gave the example of Captain J.V., Captain E.Z. and Major S.C., who testified before the OIOS investigators that, contrary to VO1’s submissions, they did not witness any inappropriate acts from Mr. Kazazi during the 10 October 2019 party.⁴⁶

64. Moreover, with regard to Orders Nos. 118 (NBI/2022) and 119 (NBI/2022), Mr. Kazazi contends that the UNDT erred when it refused his request to produce additional evidence and witnesses (namely Mr. A.K. and Mr. K.G.) once it discovered that Mr. S.M. had “no clue as to what had happened during the [CDT’s] ‘interview’”. On the contrary, he submits that the impugned Judgment did not even mention those witnesses and that “it is apparent that the [UNDT] did not even read [his] closing arguments”.

65. The Secretary-General says that contrary to Mr. Kazazi’s submission, in Order No. 113 (NBI/2021), the UNDT did not “admit” a procedural error but rather used a “measured approach” in the exercise of its discretion. Moreover, stressing that the UNDT does not have the obligation

⁴⁶ *Ibid.*, paras. 40-41. See also Investigation Report, paras. 62-63.

to address each and every submission, the Secretary-General submits that, in the present case, it provided its reasons for each Order, which reflected its considerations for both parties' arguments. The Secretary-General also observes that Mr. Kazazi failed to explain how the denial of his requests impacted the outcome of the case.

66. The UNDT has broad discretion under its Rules of Procedure to determine the admissibility of any evidence and the weight to be attached to it. Article 17(6) of the UNDT Rules provides that “[t]he Dispute Tribunal shall decide whether the personal appearance of a witness or expert is required at oral proceedings”. Article 18(5) gives discretion to the Dispute Tribunal to also limit oral testimony as it deems appropriate. Finally, Article 19 provides that it “may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties”.

67. The Appeals Tribunal has held that it “will not lightly interfere with the broad discretion conferred on the first instance tribunal in the management of its cases to enable cases to be judged fairly and expeditiously and for dispensation of justice. [It] will intervene only in clear cases of denial of due process of law affecting a party’s right to produce evidence”.⁴⁷

68. In the present case, we find that the Dispute Tribunal did not commit an error of procedure in its case management that affected the outcome of the case.

69. The UNDT held a CMD before the hearing following which it invited Mr. Kazazi to propose his list of witnesses and he proposed 14 witnesses. The parties were provided with an opportunity to opine on the necessity of holding a hearing and on the suggested list of witnesses. It heard and considered Mr. Kazazi’s applications for production of information. In the interest of fairly and expeditiously disposing of the case, the UNDT accepted Mr. Kazazi’s request for some but not all his witnesses and allowed one of his applications for production of additional information. Following the issuance of the case management Orders, the UNDT held three days of hearings during which Mr. Kazazi had ample opportunity to advocate for his position.

70. We find that Mr. Kazazi has failed to adequately demonstrate how the alleged procedural errors impacted the outcome of his case. As we have previously held, a staff member’s due process rights are complied with as long as they have a meaningful opportunity to mount a defense and to

⁴⁷ *Josef Reiterer v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1341, para. 88.

question the veracity of the statements against them, which Mr. Kazazi had.⁴⁸ The witnesses that he wished to call would have testified that they did not observe any untoward conduct from him. However, his other witnesses (Mr. B.G. and Mr. R.K.) did testify about this at the hearing so additional witnesses on this point would have been of little assistance.

71. Further, Mr. Kazazi's argument that the UNDT failed to read his closing arguments because it did not mention the involvement of two CDT staff members in the investigation is not supportable. In the impugned Judgment, the UNDT reviewed the issues and arguments and made a finding that his due process rights were respected during the investigation process. The Appeals Tribunal has previously held that "[i]t is not necessary for any court, whether a trial or appellate court, to address each and every claim made by a litigant, especially when a claim has no merit".⁴⁹

72. However, we do have some concerns about how the UNDT conducted the hearing and the hearing process. Indeed, the UNDT allowed counsel for the Secretary-General to call Mr. Kazazi first as their witness and then proceeded to essentially cross-examine him. This was allowed without consideration of how this might impact Mr. Kazazi, as the person against whom the allegations are made, and his opportunity to respond to the testimony of others, including, particularly those of VO1 and VO2 who testified after him. Nor was there a declaration or approval by the UNDT that he was being called by the Secretary-General as a hostile or adverse witness. Further, the OIOS investigators who conducted the investigation and produced the Investigation Report were called at the end of the hearing. This hearing process is not typical of employment misconduct cases in some national jurisdictions as it may compromise a staff member's ability to adequately respond to the testimony of his accusers and the investigation before the trier of fact.

73. Normally, the Secretary-General, who has the onus of proof in disciplinary cases should produce his witnesses first, including the complainant(s) and the investigator(s). This allows the staff member to fully know the case against him and to question the Secretary-General's evidence.

74. Despite these reservations, we find that the hearing and submission process did allow Mr. Kazazi sufficient opportunity to know the case against him (as set out in the Investigation Report and pre-hearing procedures) and to respond and present his own evidence. Therefore, any

⁴⁸ *Ibid.*, para. 93.

⁴⁹ *Mizyed v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-550, para. 35.

error in the hearing procedure did not affect the outcome of this case such that it amounts to a denial of due process of law warranting our intervention.

Merits of the Case

A) *The Disciplinary Standard*

75. In disciplinary cases, the Dispute Tribunal must establish:⁵⁰

- (a) whether the facts on which the sanction is based have been established by clear and convincing evidence when termination is a possible outcome,
- (b) whether the established facts qualify as misconduct under the Staff Regulations and Rules,
- (c) whether the sanction is proportionate to the offence and the circumstances, and
- (d) whether the staff member's due process rights were observed in the investigation and disciplinary process. (...)

Clear and convincing proof requires more than a preponderance of the evidence but less than proof beyond reasonable doubt; it means that the truth of the facts asserted is highly probable.

76. Mr. Kazazi submits that the UNDT erred when it found that the allegations of misconduct were established by clear and convincing evidence. He says that the UNDT erroneously relied solely on VO1 and VO2's testimonies, without providing an analysis of VO2's testimony and despite the fact that there was no evidence supporting their allegations or corroboration between their stories. On the contrary, "there were witnesses that contradicted their allegations". He also argues that the UNDT, when it found that VO1 and VO2 had no ulterior motive in testifying against him, ignored the possible reasons he provided in his closing submissions.⁵¹ Moreover, Mr. Kazazi reiterates that the UNDT erroneously denigrated his credibility as well as that of Mr. R.K. and Mr. B.G., without demonstrating that they lied. He further submits that the UNDT's finding that Mr. B.G. was his friend was not a basis to conclude that he had no credibility.

⁵⁰ *AAE v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1332, para. 95. See also *Maguy Bamba v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1259, para. 37; *Molari v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-164, paras. 29-30.

⁵¹ *Impugned Judgment*, para. 19.

77. In the present case, the UNDT did not hear from witnesses who testified that they observed Mr. Kazazi's alleged conduct and comments to VO1 and VO2.⁵² According to VO1 and VO2, Mr. B.G. and Mr. R.K. were purportedly present when Mr. Kazazi mimicked VO1's clothing, heard him tell VO1 and VO2 sexual jokes and saw how VO1 reacted when he whispered in her ear.⁵³ However, they deny having witnessed these events. Therefore, out of necessity, credibility findings of the parties' testimonies are central to the determination of this matter.

78. This means that the UNDT had to make findings of fact from conflicting versions of events and with contradictory testimonial evidence from Mr. Kazazi, VO1 and VO2.

79. As the Appeals Tribunal has previously held:⁵⁴

... [T]he assessment of the credibility and reliability of witnesses will depend on a variety of factors including: i) the witness' candour and demeanour; ii) the witness' latent and blatant biases; iii) internal and external inconsistencies in the evidence; iv) the probability or improbability of particular aspects of the witness' version; v) the calibre and cogency of the witness' testimony when compared to that of other witnesses testifying in relation to the same incident; vi) the opportunities the witness had to experience or observe the events in question; and vii) the quality, integrity and independence of the witness' recall of the events.

80. In the present case, we find that the Dispute Tribunal appropriately considered these factors. It considered that Mr. B.G. and Mr. R.K. were Mr. Kazazi's close friends and determined that their evidence suggested that their friendship with Mr. Kazazi "compromised" their impartiality.⁵⁵ For example, Mr. R.K. inexplicably refused to give VO1 Mr. Kazazi's full name when she asked him after the incidents so that she could report Mr. Kazazi for sexual harassment. Further, the Dispute Tribunal held that Mr. B.G. and Mr. R.K.'s denials that they had witnessed the incidents did not affect the Tribunal's findings that VO1 and VO2 were credible.⁵⁶

81. In reviewing the evidence of VO1 and VO2, the Dispute Tribunal appropriately relied on the fact that there was no evidence that VO1 and VO2 had an ulterior motive in reporting Mr. Kazazi.⁵⁷

⁵² Investigation Report, paras. 50 and 79.

⁵³ Impugned Judgment, para. 14.

⁵⁴ AAE Judgment, *op. cit.*, para. 105.

⁵⁵ Impugned Judgment, para. 15.

⁵⁶ *Ibid.*, para. 19.

⁵⁷ *Ibid.*

The evidence was that Mr. Kazazi had limited previous interactions and relationships with both VO1 and VO2 that would suggest an ulterior motive for their complaints.

82. The Dispute Tribunal heard and considered Mr. Kazazi's attempt to impeach the credibility of VO1 and VO2. In its discretion, the Dispute Tribunal ultimately held that it believed the evidence of VO1 and VO2 on the basis of their lack of motive in lying and the probabilities of the statements in question. For example, the Dispute Tribunal found that there was no possibility that VO1 misheard or misunderstood Mr. Kazazi when he called her a "hottie".⁵⁸

83. As a result, the Dispute Tribunal held that Mr. Kazazi inappropriately mimicked VO1's clothing and told sexual jokes and comments to both VO1 and VO2.

84. We have previously held that "[i]n order to overturn a finding of fact by the UNDT, the Appeals Tribunal must be satisfied that the finding is not supported by the evidence or that it is unreasonable".⁵⁹ That is not the case here.

85. Also, the Appeals Tribunal has opined that "some degree of deference should be given to the factual findings by the UNDT as the court of first instance, particularly where oral evidence is heard. The UNDT has the advantage of assessing the demeanour of witnesses while they are giving evidence and this is critical for assessing the credibility of the witnesses and the persuasiveness of their evidence".⁶⁰

86. Therefore, we find that the Dispute Tribunal did not err in finding that the alleged conduct was established by clear and convincing evidence.

B) Establishment of Misconduct

87. In finding that Mr. Kazazi's conduct amounted to sexual harassment and misconduct pursuant to the Staff Regulations and Rules, the Dispute Tribunal considered ST/SGB/2019/8.

88. Section 1.5 of ST/SGB/2019/8 defines "sexual harassment" as "any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation, when such conduct interferes with work, is made a condition of employment or

⁵⁸ *Ibid.*, para. 12.

⁵⁹ *Al Othman v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2019-UNAT-972, para. 70.

⁶⁰ *Ibid.*

creates an intimidating, hostile or offensive work environment. Sexual harassment may occur in the workplace or in connection with work”.

89. Section 1.7 of ST/SGB/2019/8 provides that:

Sexual harassment may involve any conduct of a verbal, non-verbal or physical nature, including written and electronic communications. Sexual harassment may occur between persons of the same or different genders, and individuals of any gender can be either the affected individuals or the alleged offenders. Sexual harassment may occur outside the workplace and outside working hours, including during official travel or social functions related to work. Sexual harassment may be perpetrated by any colleague, including a supervisor, a peer or a subordinate.

90. Moreover, pursuant to Section 1.6 of ST/SGB/2019/8, while typically involving a pattern of conduct, sexual harassment may take the form of a single incident.

91. The Dispute Tribunal correctly held that Mr. Kazazi’s conduct towards VO1 and VO2 was sexual in nature, unwelcome and might reasonably be expected or perceived to cause offence or humiliation.⁶¹

92. As stated in Section 1.6 of ST/SGB/2019/8, “[i]n assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct shall be considered”, which is what the Dispute Tribunal did in the present case.

93. Further, the perpetrator of the offending conduct does not have to intend or be aware of the offending nature of their behaviour.⁶² What is important in this case is not Mr. Kazazi’s intentions, but that VO1 and VO2 testified that they were offended and felt harassed by Mr. Kazazi’s behavior.

94. We find that the Dispute Tribunal did not err in finding that Mr. Kazazi’s actions amounted to sexual harassment and violated Staff Rule 1.2(f). As such, the facts correctly amounted to misconduct subject to a disciplinary process and the imposition of disciplinary measures pursuant to Staff Rule 10.1(a).

⁶¹ Impugned Judgment, paras. 26 and 33.

⁶² *Andry Adriantseheno v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1146/Corr. 1, para. 44.

C) *Due Process Rights during the investigation and disciplinary process*

95. Mr. Kazazi submits that the UNDT erred on a question of fact when it concluded that his due process rights were not violated in the investigation process. He submits that the UNDT erred when it found that the CDT had not interviewed him without the protections provided in Section 6 of ST/AI/2017/1 which, he submits, prohibits the involvement of two members of CDT in the investigation process. The Secretary-General contends that Mr. Kazazi's argument is based on his misunderstanding of the role of the CDT.

96. Section 6.3 of ST/AI/2017/1 provides that “[f]ollowing a decision to initiate an investigation, the responsible official shall appoint an investigative panel or an investigating entity other than OIOS”.

97. The OIOS Investigation Manual provides that “Conduct and Discipline offices do not conduct investigations: the Conduct and Discipline Unit at Headquarters provides global oversight on the state of discipline in peacekeeping operations and guidance for [CDTs] based in the peacekeeping missions. [CDTs] receive, screen and categorize reports of possible misconduct in the respective missions. [CDTs] report to the heads of the missions, to whom they provide technical advice and assistance on a series of misconduct-related issues”.

98. There is no evidence that the process as set out in the OIOS Investigation Manual was not followed. Mr. Kazazi submits that the UNDT failed to find that Mr. K.G. inappropriately participated in his OIOS interview on 28 January 2020. He further contends that this participation violated his due process rights as well as the OIOS investigation procedures and that it demonstrates that the CDT and OIOS were “tag teaming and lying” about their respective roles. He submits that such lies “warrants charges of perjury and referrals for accountability to the Secretary-General”. He also submits that the UNDT erred in fact and in law in relying on the 17 October 2019 NTF which summarized his interview because it was “totally unreliable” and “inadmissible” evidence.

99. The Secretary-General responds that Mr. K.G.'s participation (without any intervention) in Mr. Kazazi's OIOS interview on 28 January 2020 is immaterial and that, contrary to Mr. Kazazi's submission, the UNDT did not rely on the 17 October 2019 NTF.

100. We agree. The Appeals Tribunal has previously held that only substantial procedural irregularities in the disciplinary investigation will render a disciplinary measure unlawful.⁶³ In the present case, there is no evidence that the attendance of Mr. K.G. in the 28 January 2020 interview negatively impacted Mr. Kazazi's due process rights or that the CDT and OIOS were "tag teaming" in their respective roles. The irregularities relied on by Mr. Kazazi were not substantial such that they impacted his due process rights.

101. Mr. Kazazi was informed of the allegations against him in a timely manner, he was interviewed, and given the opportunity to comment on the allegations which were considered before the contested decision was made. He was provided with recordings of the interviews and all relevant supporting documentation.

102. Therefore, we find that the Dispute Tribunal did not err when it held that the investigation and the disciplinary process were conducted in accordance with the legal framework and investigation guidelines.

D) Proportionality of the Sanction

103. Staff Rule 10.2(a) provides that "[d]isciplinary measures may take one or more of the following forms only: (...) (viii) [s]eparation from service, with notice or compensation in lieu of notice, notwithstanding Staff Rule 9.7, and with or without termination indemnity pursuant to paragraph (c) of annex III to the Staff Regulations".

104. Staff Rule 10.3(b) provides that "[a]ny disciplinary measure imposed on a staff member shall be proportionate to the nature and gravity of his or her misconduct".

105. As correctly noted by the Dispute Tribunal, the Administration has a broad discretion in determining the appropriate disciplinary measure for the established misconduct and the Tribunal will only overturn a measure if it finds that it is excessive or unreasonable.⁶⁴

106. In the present case, the Dispute Tribunal correctly found that the sanction imposed on Mr. Kazazi for serious misconduct of multiple incidents and complainants accorded with the

⁶³ *Sall v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-889, para. 33.

⁶⁴ *Appellant Judgment, op.cit.*, paras. 45 and 58; *Portillo Moya Judgment, op. cit.*, paras. 19-21.

policies and practices of the Administration. The Dispute Tribunal also considered mitigating factors in making this finding.

107. Mr. Kazazi did not initially appeal the proportionality of the disciplinary measure imposed against him. He now requests that the Appeals Tribunal to take “judicial notice” of *AAN* in which *AAN* was given a “lesser sanction” for more egregious conduct.

108. However, we find that *AAN* does not assist Mr. Kazazi because in that case, the “sanction imposed fell several steps short of the most serious disciplinary outcome possible for United Nations staff members (...) [and the Tribunal was] satisfied that its imposition was within the reasonable range of sanctions open to the Secretary-General”.⁶⁵

109. As the Secretary-General has broad discretion in determining the disciplinary measure and there is reasonable range of sanctions open to him, the essential question is whether the measure is excessive and unreasonable.

110. We find that the Dispute Tribunal did not err either in its findings and assessment of the relevant rules and regulations addressing sexual misconduct, or in its assessment of the proportionality of the sanction in this regard.

111. Therefore, the appeal must fail.

⁶⁵ *AAN* Judgment, *op. cit.*, para. 43.

Judgment

112. Mr. Kazazi's appeal is dismissed, and Judgment No. UNDT/2022/087 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 27th day of October 2023 in New York, United States.

(Signed)

Judge Sandhu, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Forbang

Judgment published and entered into the Register on this 20th day of November 2023 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar