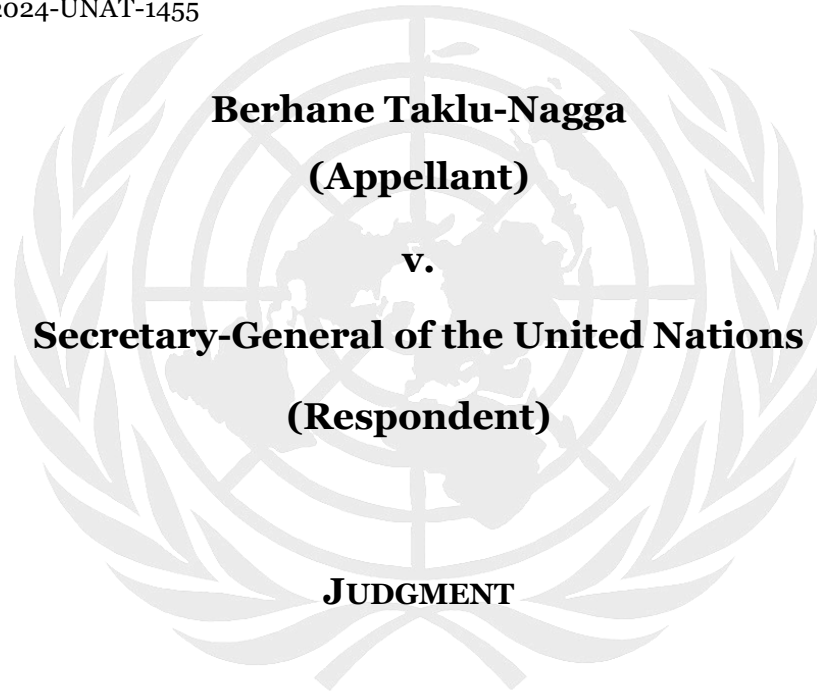




UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2024-UNAT-1455



Berhane Taklu-Nagga
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Gao Xiaoli, Presiding Judge Kanwaldeep Sandhu Judge Leslie F. Forbang
Case No.:	2023-1830
Date of Decision:	28 June 2024
Date of Publication:	25 July 2024
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Monika Ona Bileris
Counsel for Respondent:	Rupa Mitra

JUDGE GAO XIAOLI, PRESIDING.

1. Mr. Berhane Taklu-Nagga (Mr. Taklu-Nagga), a former staff member of the Office of the United Nations High Commissioner for Refugees (UNHCR), contested a disciplinary decision to dismiss him from service for three counts of fraud and one count of corruption for his involvement, as a landlord, in making fraudulent claims for rental subsidy (contested decision).¹
2. By Judgment No. UNDT/2023/035, the United Nations Dispute Tribunal (UNDT) dismissed the application on the merits (impugned Judgment).²
3. Mr. Taklu-Nagga lodged an appeal of the impugned Judgment with the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).
4. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

Facts and Procedure³

5. Mr. Taklu-Nagga joined UNHCR on 13 May 2001 as a Junior Professional Officer sponsored by the United States of America and was appointed as an Associate Protection Officer in Ethiopia.⁴ He served in multiple UNHCR operations in the field. On 1 July 2014, he was appointed as a Senior Protection Officer (P-4) in Khartoum. From 30 May 2019, he served on a temporary assignment at the UNHCR Office in Lilongwe, Malawi, also as a Senior Protection Officer at the same level.
6. At the time of the material events, Mr. Taklu-Nagga owned a furnished condominium unit (apartment) in Addis Ababa, Ethiopia, purchased in February 2008.⁵
7. From July 2014 to December 2016 at the earliest, Mr. Taklu-Nagga granted a lease of the apartment to another UNHCR staff member and his friend and colleague, Ms. X.⁶

¹ The stated misconduct consisting of the act of corruption is not before us on appeal but we include the related facts in our summary as relevant to the sanction imposed.

² *Taklu-Nagga v. Secretary-General of the United Nations*, Judgment dated 26 May 2023.

³ Summarized from the impugned Judgment as relevant to the appeal.

⁴ Impugned Judgment, para. 7.

⁵ Appeal brief, para. 4; answer brief, para. 4.

⁶ Appeal brief, para. 5; answer brief, para. 5.

8. From about 27 November 2017 to 31 December 2019, Mr. Taklu-Nagga granted a lease of the apartment to another UNHCR staff member, Mr. Y.⁷ The material facts related to that lease agreement are as follows.

9. From June 2017 to December 2019, Mr. Y, served in a field-services position in Addis Ababa.⁸

10. On 4 December 2017, in the same e-mail in which he shared the lease document with Mr. Y for his signature, Mr. Taklu-Nagga wrote:⁹

Attached please find the lease agreement for your review, if you agree, please sign it.. and send me scan copy, or I will do and send you scan one.. I made the rent for the amount of \$3500,00, your subsidize amount by the office supposed to be for the amount of between \$1700 or \$1650, plus you will get \$300 for security every months.. therefore, your monthly rent that you will pay every month the amount of \$2000, basically the amount that will be coming from your pocket only \$400/\$300.. Please don't forget when you fill the rental subsidize application to mention that, you paid the real estate porker one month rent for the amount of \$3500.. this amount will be cover by the office.... The porker name.. ask your sister she will give you the name of the porker..

11. On 6 December 2017, Mr. Taklu-Nagga sent an e-mail to Mr. Y with the rental subsidy application form.¹⁰ He wrote in the e-mail:

Attached please find the rental Subsidize application. I fill the part that ask you if you did you pay a fee to a licensed agent or broker to obtain the accommodation,, you will say yes amount \$3500.00 USD.. divided by three 3500/3 +\$1160 .. each.. Thanks

12. On 21 December 2017, Mr. Y applied for rental subsidy, specifying that the monthly rent was USD 3,500 and that he had paid USD 3,500 in agent's fees.¹¹

13. On 19 March 2018, after Mr. Y had shared with Mr. Taklu-Nagga an e-mail from the Division of Human Resources (DHR), explaining the calculation of the reimbursement for the agent's fee, which amounted to USD 1,839.91, Mr. Taklu-Nagga wrote to Mr. Y and Ms. X:¹²

⁷ Appeal brief, para. 6; lease agreement (Annex 2 to the appeal).

⁸ Impugned Judgment, para. 54.

⁹ *Ibid.*, para. 58; 4 December 2017 e-mail (Annex 023 to the Investigation Report). By "sister", Mr. Taklu-Nagga referred to Ms. X, and by "poker", he meant the real estate broker (impugned Judgment, para. 59; appeal brief, footnote 20).

¹⁰ Impugned Judgment, para. 60.

¹¹ *Ibid.*, para. 54.

According to the rule you should be full agent fee subsidy, receiving the amount of 1839.91 USD. I don't think it's right. With this in mind, please divide between the two of you. Each will get USD 920. Just deposit the rent amount into my account.

14. On 26 March 2018, Mr. Y wrote to Mr. Taklu-Nagga:¹³

Dear [Mr. Taklu-Nagga], I have transferred 8k. Allow me to put the balance next month since if I do the full amount, I will be left without food. I used the bank routing number below; Routing number: 021000089. I believe it is the correct bank routing number as seen online for Citibank. Regards. [Mr. Y's signature].

15. Mr. Taklu-Nagga replied to Mr. Y's 26 March 2018 letter as follows:¹⁴

Thanks my friend. Dude what you paid me it's the amount what you got from rental subsidy as reimbursement... your portion about 160 USD, with your security payment your portion is 2000 USD.. don't tell me I will be left without food.. I will see you on Friday if you're in Addis, I will give you a call. Again thank you so much. Berhane

16. On 29 March 2018, Mr. Taklu-Nagga instructed Mr. Y as follows:¹⁵

[A]s I indicated in my previous email, that \$ 1000, should be given to [Ms. X] as previously agreed and hope this has been done, if not I would appreciate if you kindly do so.. and pay her the amount.. I'm sure she will be calling me and ask about her USD 1000.00.

17. In response to Mr. Taklu-Nagga's 29 March 2018 e-mail, Mr. Y replied on the same day that he would do as instructed once he was home.¹⁶

18. From March 2018 to January 2020, Mr. Y received approximately USD 1,840 per month in rental subsidy from UNHCR, a total of USD 44,661.60.¹⁷

¹² *Ibid.*, para. 73.

¹³ *Ibid.*, para. 56.

¹⁴ *Ibid.*, para. 57.

¹⁵ 29 March 2018 e-mail (Annex 028 to the Investigation Report).

¹⁶ 29 March 2018 e-mail (Annex 031 to the Investigation Report).

¹⁷ *Ibid.*, para. 54; contested decision, p. 1. When Mr. Y applied for rental subsidy, his net income was USD 6,000.54. The subsidy threshold percentage rate established by the International Civil Service Commission (ICSC) for Ethiopia was 20 per cent and Mr. Y's individual threshold amount was thus USD1,200. Mr. Y was reimbursed 80 per cent of USD 2,299.89, i.e. USD 1,839.91 (impugned Judgment, para. 68).

19. Either from 1 June 2019 or from 1 January 2020 to May 2020, Mr. Taklu-Nagga again granted a lease of the apartment to Ms. X.¹⁸ The material facts related to that lease agreement are as follows.

20. Effective 16 October 2018, Ms. X was assigned to serve in Addis Ababa.¹⁹ On 24 May 2019, she sent an e-mail to Mr. Taklu-Nagga, seeking his signature to a lease agreement that would become effective on 1 June 2019.²⁰

21. In his response of 30 May 2019, Mr. Taklu-Nagga wrote to Mr. X, copying Mr. Y:²¹

[A]ttached please find sign lease agreement, in principle I have no objection and I will leave up to my commitment and you will be ending paying each month only as agreed previously \$1500.00, see attached my lease agreement I am paying \$2,100.00 , and not getting any financial assistance whatsoever, therefore, its fair for both of us for what we agreed each month that your monthly payment will be only \$1500.00..

With this in mind, I understand that, [Mr. Y], will be extend for another six months and that good break for you, he will be paying the \$2000, every month and you paying nothing.. Please send me the sign lease agreement, by you and witness in order for to do so.. please put your name in each page of the lease.. Thanks

22. On 31 May 2019, Ms. X applied for rental subsidy in connection with her lease of Mr. Taklu-Nagga's apartment.²² In her application, she indicated that she would move into the apartment on 1 June 2019, identified him as the landlord and stated that the monthly rent was USD 3,600.

23. On 16 January 2020, Mr. Taklu-Nagga wrote to Ms. X: “[Ms. X's first name], Your monthly rent will be \$1750, as agreed. Thank you”.²³

24. Ms. X claimed and obtained a total of USD 20,806.06 in rental subsidy.²⁴

¹⁸ Appeal brief, para. 5; answer brief, para. 5. According to the Administration, Ms. X had referred to “officially” moving into the apartment again on 1 June 2019 and the parties had agreed that from June 2019 to December 2019 she would live in the apartment as well but without paying rent for that period (contested decision, pp. 4-5). In contrast, according to M. Taklu-Nagga, the parties to the lease agreed to modify the originally anticipated terms of the lease so that between June and December 2019 Ms. X would live “at an alternative location” and would “pick up the lease agreement again as of January 2020” (appeal brief, para. 24).

¹⁹ Impugned Judgment, para. 79.

²⁰ 24 May 2019 e-mail (Annex 039 to the Investigation Report).

²¹ 30 May 2019 e-mail (Annex 39 to the Investigation Report).

²² Impugned Judgment, para. 79.

²³ *Ibid.* para. 80.

The investigation and disciplinary process

25. On 13 September 2021, Mr. Taklu-Nagga received a memorandum from the Director of the DHR (D/DHR) indicating that the D/DHR had received information that he “might have engaged in an entitlement fraud scheme” which was tantamount to committing serious misconduct.²⁵ As the alleged fraud was an offence, which if established, would warrant separation from service or dismissal, the D/DHR decided to place Mr. Taklu-Nagga on administrative leave without pay (ALWOP) pending the investigation.

26. A separate investigation into allegations of misconduct by Mr. Y revealed e-mails showing that Mr. Taklu-Nagga had granted a lease of his apartment to Mr. Y and Ms. X and, in the investigators’ view, suggested that while the lease indicated an amount which was used to claim the rental subsidy, the amount of rent actually paid to him was substantially less.

27. On 15 September 2021, Mr. Taklu-Nagga received a Notice of Investigation, which informed him that a formal investigation into his conduct had been opened and that the Inspector General’s Office (IGO) would be seeking to interview him.²⁶ E-mails and other information that, in the investigators’ view, suggested that the amount of rent actually paid to him was in reality substantially less than indicated and that he may have colluded with Mr. Y and Ms. X to obtain the rental subsidy in connection with his apartment.²⁷

28. On 14 January 2022, Mr. Taklu-Nagga was served with a memorandum containing Allegations of Misconduct and, attached to the memorandum, the Investigation Report and was invited to respond to the charges.²⁸

29. On 11 May 2022, Mr. Taklu-Nagga was informed of the contested disciplinary decision.²⁹ The D/DHR informed him that the High Commissioner had concluded that it had been established by clear and convincing evidence that Mr. Taklu-Nagga had:

- (i) Engaged in fraud by knowingly assisting Mr. [Y] in submitting a fraudulent claim for rental subsidy in December 2017, in connection with the lease of [his] apartment in

²⁴ *Ibid.*, para. 81.

²⁵ *Ibid.*, para. 8.

²⁶ *Ibid.*, paras. 12-14.

²⁷ *Ibid.*, paras. 9-11.

²⁸ *Ibid.*, para. 14.

²⁹ *Ibid.*, para. 16.

Addis Ababa, as a result of which Mr. [Y] received USD 44,219.04 [as corrected] in rental subsidy to which [Mr. Y] was not entitled;

(ii) Engaged in fraud by knowingly assisting Mr. [Y] in submitting a fraudulent claim for the reimbursement of the real estate agent's fees in December 2017, in connection with the lease of [his] apartment in Addis Ababa, as a result of which Mr. [Y] received USD 1,839.91 in benefits to which [Mr. Y] was not entitled;

(iii) Engaged in corruption by having Mr. [Y] pay Ms. [X] a USD 1,000 kickback for facilitating Mr. [Y's] fraudulent lease agreement with [him];

(iv) Engaged in fraud by knowingly assisting Ms. [X] in submitting a fraudulent claim for rental subsidy in May 2019, as she leased [his] apartment in Addis Ababa, as a result of which Ms. [X] received USD 20,806.06 to which she was not entitled.

30. With regard to Count (i), it was explained in the contested decision that Mr. Taklu-Nagga had engaged in a fraudulent scheme whereby he knowingly facilitated a fraudulent lease to Mr. Y, specifying an inflated monthly rent of USD 3,600, i.e. 1,500 USD more than Mr. Y actually paid as well as the fraudulent rent receipt that Mr. Y submitted with his rental subsidy application.³⁰

31. As concerns Count (ii), the contested decision stated that it had been Ms. X, not a real estate agent or rental broker, who had put Mr. Y in contact with Mr. Taklu-Nagga about the apartment and Mr. Taklu-Nagga had told Mr. Y and Ms. X to divide the subsidy received between the two of them.³¹

32. In respect of Count (iii), it was affirmed in the contested decision that Ms. X facilitated the fraudulent lease between Mr. Y and Mr. Taklu-Nagga, and the latter asked Mr. Y to pay the USD 1,000 to Ms. X, which was a "kickback".³²

33. As regards Count (iv), it was explained in the contested decision that Mr. Taklu-Nagga had agreed with Ms. X that she would not pay rent between June and December 2019, contrary to the terms provided in the lease document, and that she would then pay a lower rent than provided in the lease document.³³

34. The contested disciplinary decision also stated that by each of those acts, Mr. Taklu-Nagga breached his basic obligations under Staff Regulation 1.2(b) and IOM/O44-

³⁰ Contested decision (Annex 2 to the appeal).

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.* Implying that the fraudulent agreement had been put into action, it was also noted in the contested decision that Ms. X had lived in the apartment with Mr. Y and had not paid rent for the period that they shared the apartment.

FOM/44/2013 of 8 July 2013 (Strategic Framework for the Prevention of Fraud and Corruption) (Strategic Framework).³⁴ It identified as an aggravating circumstance that he had engaged in multiple acts of misconduct and as a mitigating circumstance that he had a long and satisfactory service record with UNHCR with a previously unblemished disciplinary record.³⁵ It further stated that the High Commissioner had taken into account the disciplinary sanction of dismissal or separation from service by the High Commissioner in similar cases, i.e. for entitlement fraud.

35. Mr. Taklu-Nagga's dismissal became effective upon receipt of the contested decision on or about 11 May 2022.³⁶

36. On 9 August 2022, he filed an application with the UNDT.³⁷

The impugned Judgment

37. By Judgment No. UNDT/2023/035 dated 26 March 2023, the UNDT dismissed the application.

38. The UNDT was of the view that the documents on record demonstrate by clear and convincing evidence that Mr. Taklu-Nagga had granted lease of his apartment to Mr. Y and Ms. X based on a lease document with an inflated rent and without paying agent's fees and that the latter two used that document to claim rental subsidy from UNHCR in an undue amount.³⁸

39. With regard to Count (i), the UNDT held that Mr. Y had not paid USD 3,500 in monthly rent and Mr. Taklu-Nagga had knowingly provided a false lease document and a false rent receipt to Mr. Y so that Mr. Y could claim and obtain a higher rental subsidy.³⁹

40. Referring to the correspondence of 4 December 2017, 6 December 2017 and 26 March 2018 and other corroborating communications, the UNDT concluded that the e-mails exchanged between him and Mr. Y were clear and spoke for themselves: Mr. Taklu-Nagga wrote that he had

³⁴ Contested decision (Annex 2 to the appeal).

³⁵ In addition, in respect of another previously raised set of allegations that Mr. Taklu-Nagga had engaged in fraud by knowingly assisting Ms. X in submitting fraudulent claims for rental subsidy in 2015 and 2016, the disciplinary decision noted that the High Commissioner had considered that the allegations had not been established to the required standard of proof.

³⁶ Impugned Judgment, para. 17.

³⁷ *Ibid.*, para. 2.

³⁸ *Ibid.*, para. 83.

³⁹ *Ibid.*, para. 55.

set an amount of rent of USD 3,500, that Mr. Y would obtain almost half of the rent in rental subsidy, and that, considering that Mr. Y would pay a monthly rent of USD 2,000, only a few hundred dollars would come from Mr. Y's pocket.⁴⁰

41. The UNDT found that the e-mails, all discovered by the IGO through a forensic analysis of official UNHCR e-mail archives, had the strong evidentiary value of an out-of-court confession to a third party.⁴¹ Mr. Taklu-Nagga has provided no evidence on having received rent in the amount of USD 3,500 per month. He and Mr. Y provided wholly inconsistent and contradictory accounts. The purported "True Statement" of Mr. Taklu-Nagga's uncle (Mr. U), dated 29 January 2022, the equivocal content and form of which raised many doubts, has no probative value and does not overcome the evidentiary weight of the e-mails.

42. The UNDT noted that, had Mr. Y applied for rental subsidy based on his real monthly rent (USD 2,000), the amount in excess of his individual threshold would have been USD 799.89, and he would have received USD 639.91 in rental subsidy, not USD 1,839.91 as he did.⁴² By entering into the fraudulent agreement and indicating in the lease document a higher amount of rent than effectively borne by Mr. Y, Mr. Taklu-Nagga obtained rent which would not be accepted by a tenant. Communications between him and Mr. Y on 26 March 2018 show that he was fully cognizant of the fraud and of the fact that they shared the advantages of the fraudulent scheme.

43. Turning to Count (ii), i.e. the claim for the reimbursement of the real estate agent's fees, the UNDT found that the e-mail exchanges on record showed that the three staff members had colluded to fraudulently obtain a subsidy for the agent's fees, which they agreed to split among themselves.⁴³

44. Referring to the e-mail of 19 March 2018 specifically, the UNDT concluded that Mr. Taklu-Nagga's e-mails to Mr. Y and Ms. X were manifest and highly persuasive evidence that he first instigated Mr. Y to submit a fraudulent claim for the subsidy for the agent's fee and then instructed Mr. Y to divide the subsidy, being USD 1,839.91, with Ms. X.⁴⁴ His explanation is unsupported and there is no evidence on file that he contracted or paid any real estate agents.

⁴⁰ *Ibid.*, paras. 61-62.

⁴¹ *Ibid.*, paras. 63-66.

⁴² *Ibid.*, paras. 67-71.

⁴³ *Ibid.*, para. 72.

⁴⁴ *Ibid.*, paras. 73-75.

45. Next, in respect of Count (iii), the UNDT noted that Ms. X helped Mr. Y in entering into the lease of Mr. Taklu-Nagga's apartment and Mr. Taklu-Nagga instructed Mr. Y to pay USD 1,000 to Ms. X.⁴⁵

46. Lastly, turning to Count (iv), the UNDT found that Mr. Taklu-Nagga's 16 January 2020 e-mail to Ms. X showed the same *modus operandi* as in Mr. Y's fraud.⁴⁶ He knowingly provided Ms. X a false lease document with an inflated rent and a false rent receipt, which she used to claim and obtain a total of USD 20,806.06 in rental subsidy to which she was not entitled. As in Mr. Y's case, there is no evidence of the existence of any agreement that Ms. X pay part of the rent in cash, and similarly, of any alleged cash payment having been made. Withdrawing money in Kenya and delivering it to unidentified persons in Ethiopia, even violating customs rules on transportation of money through sovereign borders, is not credible at all.

47. The UNDT held that the facts constituted misconduct.⁴⁷ By knowingly providing lease documents and rent receipts containing false information to Mr. Y and Ms. X, which they submitted in December 2017 and May 2019, respectively, and because of which they received a total of USD 65,025.10 in rental subsidy to which they were not entitled, Mr. Taklu-Nagga breached his obligation to uphold the highest standards of integrity and engaged in fraud as defined in the Strategic Framework.

48. With regard to the issue of misconduct in Count (iii), the UNDT was of the view that there was nothing illicit in Ms. X's involvement in facilitating the rental contract and in being compensated for her services, rendered within a purely private negotiation relationship.⁴⁸ The UNDT did not find Mr. Taklu-Nagga having engaged in corruption.⁴⁹

49. The UNDT found that each of the established acts of misconduct would individually warrant dismissal, considering previous practice and the jurisprudence of the Tribunals.⁵⁰ UNHCR applies a zero-tolerance approach to fraud and corruption pursuant to the Strategic Framework. This means that, where established, such misconduct attracts severe disciplinary sanctions.

⁴⁵ *Ibid.*, para. 76.

⁴⁶ *Ibid.*, paras. 80-81.

⁴⁷ *Ibid.*, paras. 84-86.

⁴⁸ *Ibid.*, para. 77.

⁴⁹ *Ibid.*, paras. 84-86.

⁵⁰ *Ibid.*, paras. 87-88.

50. The UNDT noted that it was not disputed that the investigation and disciplinary process had fully complied with the requirements set out in UNHCR/AI/2019/15 (Administrative Instruction on Conducting Investigations in UNHCR) and UNHCR/AI/2018/18 (Administrative Instruction on Misconduct and the Disciplinary Process).⁵¹ Mr. Taklu-Nagga's due process rights were fully respected.

Procedure before the Appeals Tribunal

51. On 24 July 2023, Mr. Taklu-Nagga filed an appeal of the impugned Judgment with the Appeals Tribunal, to which the Secretary-General filed an answer on 2 October 2023.

Submissions

Mr. Taklu-Nagga's Appeal

52. Mr. Taklu-Nagga requests the Appeals Tribunal to rescind the impugned Judgment and order immediate reinstatement, payment of salary and benefits from the date he was placed on ALWOP, i.e. 12 September 2021, compensation for moral damage in the amount of USD 20,000 and interest on all amounts at 5 per cent per annum from the date of the contested decision and other such redress as the Appeals Tribunal deems fair and necessary.

53. He submits that the UNDT erred in finding that the facts were established. He charged the amounts of rent as stated on the lease documents and receipts; he charged Mr. Y USD 3,500 in rent per month, not USD 2,000. He never received "a real estate broker subsidy".⁵² He did not help Ms. X in obtaining an unlawful rental subsidy. The e-mails do not confirm otherwise. While the oral testimonies provided before the IGO by him and Mr. Y or the "True Statement" of Mr. U might not have been probative evidence to overcome the evidentiary value of the e-mails, they show merely the absence of apt record-keeping on his part.

54. Mr. Taklu-Nagga contends that the UNDT incorrectly concluded that he profited from the events. He did not and there is no tangible evidence to show he did.

⁵¹ *Ibid.*, para. 90.

⁵² Referring to the e-mails of 4 and 6 December 2017, Mr. Taklu-Nagga maintains that he had three real estate brokers that showed the apartment for him and that "3500/3" meant an even split of USD 3,500 between the three brokers as he initially felt he owed to each of them for their work but that subsequently in the e-mail of 19 March 2018, he meant that "the split to the brokers would be reduced and he would pay the third on his own".

55. Regarding Count (iv), he argues that he did not submit any paperwork on Ms. X's behalf and remains unaware of whatever entitlement claims she might have made.

56. Mr. Taklu-Nagga states that the UNDT disregarded three further facts in deciding on the application. First, he supported his relatives in Ethiopia with the rental income and, as Mr. Y has corroborated, he agreed with Mr. Y that Mr. Y would give the remainder of the monthly USD 3,500 to them in cash, which is a standard arrangement in Ethiopia. Second, the rent was consistent with the market rate and there was no reason for him to charge any less. A UNHCR representative approved the rent amount as reasonable. Mr. Y and he had no relationship besides being familiar with Ms. X, so it defies logic that he would go out on a limb to help a mere acquaintance receive a fraudulent subsidy. Although he was better friends with Ms. X, charging her roughly half of what he could quickly have received from another tenant makes no sense. Third, he stood to make no personal gain from assisting in committing fraud. He did not receive any of the rental subsidies.

57. Mr. Taklu-Nagga contends that the facts do not constitute misconduct. He gave his uncle full power of attorney to deal with the apartment. His arrangements with Mr. Y and Ms. X were not illegal, and he was entitled to collect rents however he wished, which, in this case, was in line with local customs. The UNDT failed to examine the exculpatory evidence, including his testimony before the IGO. It also failed to find any *mens rea*, as required.⁵³

58. He submits that the disciplinary measure of summary dismissal was disproportionate. He was not the principal offender. Dismissal is the severest punishment with significant effects beyond this employment relationship. The UNDT made no mention of the mitigating factors, including his excellent service of 20 years, unblemished record and the fact that his business was separate from his service as a staff member.

59. Mr. Taklu-Nagga argues that due process was not respected as he was not granted the presumption of innocence. In his response to the charges and in his application before the UNDT, he stated that he had felt that he had been the subject of racism and unfairness. The investigator called into question his United States citizenship, ownership of property and

⁵³ Mr. Taklu-Nagga cites the concurring opinion of Judge Boyko to *Liyandarachchige v. Secretary-General of United Nations*, Judgment No. 2010-TANU-087, para. 3.

university degrees, among others.⁵⁴ Later admitting that those questions were not relevant to the investigation, the investigator apparently made assumptions that he was lying and purposely tried to impugn his credibility, rather than conduct a fair and balanced investigation.

The Secretary-General's Answer

60. The Secretary-General requests the Appeals Tribunal to uphold the impugned Judgment and dismiss the appeal.

61. The Secretary-General contends that Mr. Taklu-Nagga has failed to show any error in the UNDT's findings of fact. His assertions merely amount to disagreement with the UNDT's conclusions. By simply repeating his earlier arguments, he has failed to discharge the burden to satisfy the Appeals Tribunal that the impugned Judgment is defective.

62. The Secretary-General states that, contrary to Mr. Taklu-Nagga's submission on appeal, the UNDT never made a finding that the e-mail of 26 March 2018 "proved" that the agreed amount of rent was USD 2,000 per month, rather than USD 3,500 per month. With regard to the broker's fee, nowhere in the record has he ever even provided the names for any of the alleged three brokers. His explanation defies all logic. Also, he has not addressed the contradictions with Mr. Y's application for the subsidy, in which it was indicated that Mr. Y had paid USD 3,500 to one agent, and with his own statement before the UNDT that the brokers did not show the apartment to Mr. Y. In the latter case, the fee would not have been borne by Mr. Y.

63. The Secretary-General submits that neither the contested decision nor the impugned Judgment relies on a showing that Mr. Taklu-Nagga personally profited from the fraud. Whether he personally profited, is irrelevant. His motives have no bearing on whether his acts constituted misconduct.

64. The Secretary-General argues that the UNDT correctly held that the established facts constituted misconduct. Mr. Taklu-Nagga's claim that the UNDT failed to find any *mens rea*

⁵⁴ Referring to the transcript of the IGO interview (Annex 3F to the appeal), p 7, Mr. Taklu-Nagga submits that the investigators asked him, e.g.: "so all the qualifications that you've obtained, then, any qualifications that you've submitted to UNHCR, are they all genuine qualifications?"

is misplaced—the UNDT correctly found that he was fully cognizant of the fraud. Contrary to his observation, the UNDT did address his testimony before the IGO.

65. The Secretary-General maintains that the UNDT correctly held that the disciplinary measure imposed was proportionate to the offence. Even if the UNDT had drawn inferences, this would also have been lawful. The UNDT took into account Mr. Taklu-Nagga’s submissions that he had not been the principal offender, and correctly dismissed them.

66. The Secretary-General contends that the UNDT correctly held that Mr. Taklu-Nagga’s due process rights had been fully respected. He literally repeats his submissions made before the UNDT without demonstrating any error in the impugned Judgment.

Considerations

67. According to the *Sanwidi* test of judicial review in disciplinary cases and with Mr. Taklu-Nagga’s arguments in mind, the issues in this case are: (a) whether the UNDT erred in finding that the alleged facts were established; (b) whether the UNDT erred in finding that the established facts constituted misconduct; (c) whether the UNDT erred in deciding that the sanction was proportionate to the offense; (d) whether the UNDT erred in concluding that Mr. Taklu-Nagga’s due process rights had been observed.⁵⁵

Whether the UNDT erred in finding that the alleged facts were established

68. With regard to the evidentiary standard, we recall what we have said in *Nimusiima*:⁵⁶

(...) The Administration bears the burden of establishing that the alleged misconduct for which a disciplinary measure has been taken against a staff member occurred.

...

(...) The consistent jurisprudence of the Appeals Tribunal has held that “when termination is a possible outcome, misconduct must be established by clear and convincing evidence. Clear and convincing proof requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt—it means that the truth of the facts asserted is highly probable.”

⁵⁵ *Sanwidi v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-084.

⁵⁶ *Doreen Nimusiima v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1431, paras. 90 and 95-96 (internal citations omitted).

(...) Clear and convincing evidence of misconduct, including as here, serious misconduct, imports two high evidential standards. The first (“clear”) is that the evidence of misconduct must be unequivocal and manifest. Separately, the second standard (“convincing”) requires that this clear evidence must be persuasive to a high standard appropriate to the gravity of the allegation against the staff member and in light of the severity of the consequence of its acceptance. Evidence, which is required to be clear and convincing, can be direct evidence of events or may be of evidential inferences that can be properly drawn from other direct evidence.

69. Of the four counts of misconduct listed in the contested decision, the UNDT found that three counts of fraud were established by clear and convincing evidence, while the determination of the Administration that Mr. Taklu-Nagga had engaged in corruption was dismissed by the UNDT. On appeal, Mr. Taklu-Nagga takes issue with each of the UNDT’s findings concerning fraud.

(i) Concerning Mr. Y’s rental subsidy

70. Mr. Taklu-Nagga asserts that the UNDT erred in fact by finding, based on several e-mail communications between him and Mr. Y, that Mr. Y had paid him only USD 2,000 per month instead of 3,500 per month in rent. Mr. Taklu-Nagga insists that USD 8,000, mentioned in the 26 March 2018 e-mail, was part of an amount Mr. Y had agreed to pay in advance directly to his bank account as per an oral agreement. Mr. Taklu-Nagga argues that the said e-mail could not prove that Mr. Y had paid only USD 2,000 per month in rent.⁵⁷ A similar rationale forms the basis for his contention with regard to his reply to Mr. Y’s 26 March 2018 e-mail that by USD 160, he also meant the amount paid directly to his bank account: “It does not mean there was not an additional USD 1,500, which Mr. [Y] paid in cash to the Appellant’s family.”⁵⁸

71. We find that Mr. Taklu-Nagga’s contention could not stand. His appeal in this regard is once again premised on the existence of an oral agreement between him and Mr. Y, according to which the rent of USD 3,500 per month stipulated in the lease was divided into two parts: USD 2,000 to be directly paid to his bank account and USD 1,500 to be paid in cash to his family. Nevertheless, several key e-mail communications cited by the Administration have clearly and convincingly proved that the actual amount paid in rent per

⁵⁷ Appeal brief, para. 21.

⁵⁸ *Ibid.*, para. 22.

month by Mr. Y was USD 2,000. Especially, the expression of “basically the amount that will be coming from your pocket only \$400/\$300” in the e-mail of 4 December 2017 shows that Mr. Taklu-Nagga never had the intention to receive USD 3,500 from Mr. Y. In this context, it was Mr. Taklu-Nagga’s burden to prove otherwise, which he did not. We note that throughout the period of more than two years, Mr. Y and Mr. Taklu-Nagga exchanged multiple messages to discuss the payment arrangements, none of them mentioned any arrangement involving an additional payment of USD 1,500 per month. All the discussions between them only referred to the amount of USD 2,000 per month. The alleged arrangement about such a substantial amount defies logic and contradicts their pattern of behaviour.

72. To support his oral agreement with Mr. Y, Mr. Taklu-Nagga provided a “True Statement” by Mr. U dated 29 January 2022. This piece of evidence was deemed to have no probative value by the UNDT. We share the UNDT’s evaluation of the probative value of this evidence. Therefore, despite Mr. Taklu-Nagga’s persistent claims that he did charge USD 3,500 per month from Mr. Y, the totality of the evidence on the record shows quite the opposite. Mere assertions of fact will not exempt Mr. Taklu-Nagga from his burden of proof and only repeating his submissions made before the UNDT does not satisfy this Tribunal. In this regard, Mr. Taklu-Nagga did not prove that the impugned Judgment is defective.

(ii) Concerning the real estate agent’s fees

73. Mr. Taklu-Nagga restates that he had three real estate brokers who showed the apartment for him and “divided by three”, as mentioned in the e-mail dated 6 December 2017, meant splitting the reimbursement among the three agents. As for the 19 March 2018 e-mail, he explains that “the split to the brokers would be reduced and that he would pay the third on his own”.⁵⁹

74. We find that Mr. Taklu-Nagga’s explanation on the matter of the real estate agent’s fees is far-fetched and unconvincing. We agree with the Secretary-General that nowhere in the record has Mr. Taklu-Nagga ever provided the names of the alleged three brokers and his version is inconsistent with Mr. Y’s application requesting the subsidy for the agent’s fee paid

⁵⁹ *Ibid.*, para. 23.

to one agent.⁶⁰

75. In our view, the relevant e-mails of 6 December 2017 and 19 March 2018 are manifest, highly persuasive and speak for themselves. Relying on this clear and convincing evidence, the UNDT correctly found that Mr. Taklu-Nagga had instigated Mr. Y to submit a fraudulent claim for the subsidy of agent's fees from UNHCR and then had instructed him to divide the subsidy with Ms. X.

(iii) Concerning Ms. X's rental subsidy

76. Mr. Taklu-Nagga claims that the UNDT relied on a single e-mail dated 16 January 2020 to confirm that the monthly rent paid by Ms. X was USD 1,750. Mr. Taklu-Nagga again argues that he did not submit any paperwork on Ms. X's behalf and remained unaware of whatever claims she might have made.⁶¹

77. We note that the UNDT did not reach its conclusion on the basis of a single e-mail. Having analyzed Count (i) involving Mr. Y in a thorough and detailed manner, the UNDT found that Count (iii) involving Ms. X shared the same *modus operandi*. Accordingly, the cited e-mail of 16 January 2020 serves to establish *modus operandi*, which does not mean that the UNDT's factual finding concerning Ms. X was solely based on this single e-mail. The UNDT's finding was founded on comprehensive consideration and evaluation of all the evidence before it. To avoid prolixity, the UNDT abstained from citing and analyzing all the evidence on record.

78. The UNDT correctly established that Mr. Taklu-Nagga knowingly provided Ms. X a false lease with an inflated rent and a false receipt, which Ms. X used to claim and obtain her rental subsidy to which she was not entitled. Mr. Taklu-Nagga's allegation that he did not submit any paperwork on Ms. X's behalf is irrelevant in deciding whether he provided false information in the lease and receipt given to Ms. X. As was also the case in Count (i), Mr. Taklu-Nagga could not provide any evidence to prove that Ms. X did pay part of the rent in cash to his family. Mr. Taklu-Nagga's explanation of his action as "not emailing clearly", "poor judgment" and "ineptitude" in Ms. X's case is simply untenable. On appeal, Mr. Taklu-Nagga simply repeats his arguments made before the UNDT without specifying

⁶⁰ Answer brief, para. 22.

⁶¹ Appeal brief, para. 26.

any errors by the UNDT.

79. In light of the above, Mr. Taklu-Nagga fails to convince this Tribunal that the UNDT made any factual errors that justify our intervention in the three counts of misconduct. We reiterate that the appeals process is not an arena to rediscuss factual issues, which have already been settled by the first instance tribunal. In the absence of a compelling argument that the UNDT erred on a question of fact resulting in a manifestly unreasonable decision, the Appeals Tribunal will not lightly interfere with the findings of the UNDT. Moreover, Mr. Taklu-Nagga's appeal does not satisfy the burden arising from Article 2(1)(e) of the UNAT Statute as he has failed to demonstrate that the impugned Judgment was based on an error of fact resulting in a manifestly unreasonable decision.⁶²

Whether the UNDT erred in finding that the established facts constituted misconduct

80. Based on the factual findings, citing the Strategic Framework, the UNDT found that Mr. Taklu-Nagga engaged in fraud and his action constituted misconduct.

81. Mr. Taklu-Nagga disagrees with the UNDT's conclusion. First, Mr. Taklu-Nagga repeats that he did not profit personally from his conduct and, as such, there was no reason for him to charge Mr. Y and Ms. X much less than the market rate for his apartment. He contends that he did not receive any rental subsidies from UNHCR and it defies logic that he would have taken such a great risk for either individual to claim the alleged fraudulent rental subsidies when there was no benefit for him.⁶³ Second, Mr. Taklu-Nagga argues that the UNDT failed to find any *mens rea* on his part, even though it is a requisite element of fraud.⁶⁴

82. The Strategic Framework, in its relevant part, defines fraud as follows:⁶⁵

Any act or omission, including misrepresentation or concealment of a material fact, that knowingly or intentionally misleads, or attempts to mislead, a party to obtain a benefit, whether directly or indirectly, whether for oneself or for a third party. Fraud could involve misappropriation of cash (such as fraudulent claims/disbursements) or other assets (such as fraudulent shipments, falsifying inventory records), or fraudulent statements (purposefully misreporting or omitting information).

⁶² *Bastet v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-511, para. 58.

⁶³ Appeal brief, para. 27.

⁶⁴ *Ibid.*, para. 32.

⁶⁵ Strategic Framework, paras. 8 and 11.

...

Fraudulent acts constitute serious acts of misconduct, and include the following examples:

- a) Forging of documents, preparing false entries in UNHCR systems or making false statements to obtain a financial or other benefit to which a person is not entitled[.]

83. As for Mr. Taklu-Nagga's first argument about personal benefit or profit, the UNDT properly held that he was "not blamed by the Administration for (...) having received illegal payments from (...) UNHCR, nor for having submitted fraudulent documents to UNHCR".⁶⁶ So Mr. Taklu-Nagga's statement that he did not submit the rental subsidy application himself nor act on behalf of the two individuals in their applications for rental subsidy has missed the point. Even though the UNDT held that "the parties to the rental agreement unlawfully profited by misconceiving the real amount of the rent",⁶⁷ the UNDT decision that the behaviour in question constituted misconduct did not rest on this conclusion. Once the alleged facts have been established by clear and convincing evidence, the next step of determining misconduct should be applying the relevant regulatory framework, which the UNDT did.

84. To be specific, the above-mentioned definition of fraud stipulates clearly that a party who commits fraud could obtain a benefit "directly or indirectly" and "for oneself or for a third party". Even if Mr. Taklu-Nagga did not benefit personally or directly from the fraudulent subsidies, the third parties, i.e. Mr. Y and Ms. X, did benefit.

85. Further, the motive of Mr. Taklu-Nagga is not a mandatory component constituting misconduct in the present case. Mr. Taklu-Nagga's question of why he would go out on a limb to help the two individuals when there was no benefit for him is irrelevant.

86. Next, we turn to Mr. Taklu-Nagga's second argument. At the outset, *mens rea* is distinct from motive. It literally means "guilty mind" and refers to the intention or knowledge of wrongdoing that constitutes the mental element of a crime. Mr. Taklu-Nagga cites *Liyandarachhige* to illustrate that for serious misconduct that is criminal in nature, such as fraud in the present case, "there must also be proof that the staff member acted in a

⁶⁶ Impugned Judgment, para. 67.

⁶⁷ *Ibid.*, para. 70.

deliberate manner and with some knowledge of what he or she was doing”.⁶⁸

87. As we stressed above, whether the established facts constitute misconduct is a question of law which calls for a careful assessment of the facts from the perspective of the applicable legal framework. In this case, the fraud definition in the Strategic Framework contains the requirement that the act “*knowingly or intentionally* misleads, or attempts to mislead, a party to obtain a benefit”.⁶⁹

88. Bearing this in mind, we are satisfied that the UNDT resolved the issue of establishing the existence of the mental element in the process of its fact-finding. In Count (i), the UNDT found that Mr. Taklu-Nagga “was fully cognizant of the fraud” based on the communications between Mr. Y and him on 26 March 2018.⁷⁰ With regard to the agent’s fees in Count (ii), the UNDT found, based on the 4 and 6 December 2017 e-mails and the 19 March 2018 e-mail, that Mr. Taklu-Nagga had *first instigated* Mr. Y to submit a fraudulent claim and *then instructed* Mr. Y to divide the subsidy with Ms. X.⁷¹ In respect of Count (iii) involving Ms. X, Mr. Taklu-Nagga was also found to have knowingly provided a false lease with an inflated rent and a false rent receipt.⁷²

89. In conclusion, in all three counts of fraud, the subjective requirement of Mr. Taklu-Nagga having “knowingly or intentionally” engaged in fraud has been met. Having established the facts by clear and convincing evidence and upon evaluating the alleged misconduct under the applicable legal framework, the UNDT was correct in determining that Mr. Taklu-Nagga’s behaviour constituted misconduct.

Whether the UNDT erred in deciding that the sanction was proportionate to the offense

90. Concerning the assessment criteria for the proportionality of the sanction, we have said in *Thiare*:⁷³

(...) The matter of the degree of the sanction is usually reserved for the Administration, which has discretion to impose the measure that it considers adequate in the

⁶⁸ *Liyanarachchige* concurring opinion of Judge Boyko, *op. cit.*, para. 3.

⁶⁹ Emphasis added.

⁷⁰ Impugned Judgment, para. 71.

⁷¹ *Ibid.*, para. 74 (emphasis added).

⁷² *Ibid.*, para. 81.

⁷³ *Cheikh Thiare v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1167, paras. 33-34 (internal citations omitted).

circumstances of the case and for the specific actions and conduct of the staff member involved. This appears as a natural consequence of the scope of administrative hierarchy and the power vested in the competent authority. It is the Administration that carries out the administrative activity and procedure, and it is the Administration that deals with the staff members. Therefore, the Administration is the best suited actor to select an adequate sanction able to fulfill the following general requirements, which include *inter alia* that the sanction imposed is within the limits stated by the respective norms, and second, the sanction must be sufficient to prevent repetitive wrongdoing, punish the wrongdoer, satisfy victims and restore the administrative balance. That is why the tribunals will only interfere and rescind or modify a sanction imposed by the Administration where the sanction imposed is blatantly illegal, arbitrary, adopted beyond the limits stated by the respective norms, excessive, abusive, discriminatory or absurd in its severity. This rationale is followed in the jurisprudence of this Tribunal.

(...) The Secretary-General also has the discretion to weigh aggravating and mitigating circumstances when deciding upon the appropriate sanction (...).

91. The UNDT noted that UNHCR applied a “zero-tolerance” approach to fraud. Taking into account “previous practice and the jurisprudence of the Tribunals”, the UNDT found that each of the allegations for which Mr. Taklu-Nagga was sanctioned would have individually warranted dismissal.⁷⁴

92. Section 4 of the Strategic Framework provides for a “zero[-]tolerance approach” as follows:

15. UNHCR applies a zero-tolerance approach where it has been established that its staff, consultants, contractors, implementing partners, and/or other parties with a contractual link to UNHCR have engaged in fraudulent acts. “Zero tolerance” means that UNHCR will pursue all allegations falling under the scope of this Strategic Framework, and that appropriate firm administrative/disciplinary measures or contractual remedies will be applied where the allegations are substantiated.

16. It is UNHCR’s responsibility to ensure that its resources are used for the intended purposes. This is clearly extended to resources administered or controlled by UNHCR staff, or by individuals or entities representing the Organization or implementing the Organization’s projects. It is of paramount importance that UNHCR staff members, consultants, contractors, implementing partners, and/or other parties with a contractual link to UNHCR are beyond reproach, and that the Organization’s regulations and procedures support the highest standards of ethical and financial integrity.

93. Mr. Taklu-Nagga contends that the disciplinary measure of summary dismissal was disproportionate to the misconduct. Again, his argument in this respect is mainly based on

⁷⁴ Impugned judgment, paras. 87-88.

the premise that the alleged facts do not prove that he committed fraud. We have addressed this matter above and will not deal with Mr. Taklu-Nagga's argument relating to the fact-finding.

94. Mr. Taklu-Nagga also argues that the UNDT made no mention of the mitigating factors, including his long, excellent service with the Organization, etc. We cannot agree with this allegation. We note that the Administration did take into consideration the mitigating and aggravating factors when imposing the sanction on Mr. Taklu-Nagga. The UNDT concurred with the Administration in terms of its analysis of the relevant factors.

95. We share the view of the UNDT that fraud is serious misconduct which significantly damages the trust between the Organization and staff members. Honesty and integrity are core values expected of international civil servants. As we have noted in *Payenda*:⁷⁵

Staff Regulation 1.2(b) makes it clear that, as a "core value" of the Organization, staff members shall uphold the highest standards of integrity. This concept includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status. As a general rule, any form of dishonest conduct compromises the necessary relationship of trust between employer and employee and will generally warrant dismissal.

96. We have further pointed out in *Ogorodnikov*:⁷⁶

Fraudulent misconduct on its own is a very serious offence in any work place. Such behaviour must be treated with the utmost seriousness and ought not to be condoned by any Organization, more so, an Organization like the United Nations which reports to and is accountable to Member States, which expect "the highest standards of efficiency, competence, and integrity" from the staff of the Organization.

97. In light of the above, Mr. Taklu-Nagga's appeal in this aspect has no merit.

Whether the UNDT erred in concluding that Mr. Taklu-Nagga's due process rights were observed

98. The UNDT held that it was not disputed that the investigation and the disciplinary

⁷⁵ *Ahmad Shuaib Payenda v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1156, para. 38 (internal citation omitted).

⁷⁶ *Ogorodnikov v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-549, para. 34.

process had fully complied with the requirements set out in UNHCR/AI/2019/15 and UNHCR/AI/2018/18.⁷⁷

99. In his rejoinder to the Secretary-General's reply before the UNDT, Mr. Taklu-Nagga did not contest that he was given the opportunity to respond to the allegations as per UNHCR/AI/2019/15 and UNHCR/AI/2018/18, but contested that the IGO investigators had not applied the presumption of innocence and had acted in a harassing manner. In this way, he purportedly had not been afforded due process. On appeal, Mr. Taklu-Nagga again alleges that his due process rights were not respected as he was not granted the presumption of innocence and that he felt he was the subject of racism and unfairness by the IGO investigator.⁷⁸

100. We affirm that the principle of presumption of innocence should be upheld in disciplinary cases. The staff member is "presumed to be innocent and the Administration bears the burden of establishing to a requisite standard of proof that the alleged misconduct occurred, based on evidence that is both credible and reliable".⁷⁹ In this case, we consider that the Organization respected this principle.

101. When it comes to the question of due process, this Tribunal has consistently held that only substantial procedural irregularities can render a disciplinary sanction unlawful,⁸⁰ and this did not occur in the present case. Procedural fairness is a highly variable concept and is context-specific; "the essential question is whether the staff member is adequately appraised of any allegations and had a reasonable opportunity to make representations before action was taken against him".⁸¹ Even if the IGO investigator's certain words or behaviour may have appeared to Mr. Taklu-Nagga inappropriate, they were far from amounting to substantial procedural irregularities. Indeed, Mr. Taklu-Nagga did not deny that he was given adequate opportunity to respond to the allegations during the investigation and the disciplinary process.

102. In light of the above, Mr. Taklu-Nagga's appeal in this respect is not supportable.

⁷⁷ Impugned Judgment, para. 90.

⁷⁸ Appeal brief, para. 39.

⁷⁹ *Liyanarachchige* concurring opinion of Judge Boyko, *op. cit.*, para. 1.

⁸⁰ *Nadasan v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-918, para. 43 (internal citation omitted).

⁸¹ *Michaud v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-761, para. 56.

Remedies

103. As the Appeals Tribunal has held in *Antaki*,⁸² and *Oummih*,⁸³ compensation cannot be granted when there is no breach of the staff member's rights or administrative wrongdoing in need of repair.

⁸² *Antaki v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-095, paras. 23-25.

⁸³ *Oummih v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-518/Corr.1, para. 41.

Judgment

104. Mr. Taklu-Nagga's appeal is dismissed, and Judgment No. UNDT/2023/035 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 28th day of June 2024 in New York, United States.

(Signed)

Judge Gao, Presiding

(Signed)

Judge Sandhu

(Signed)

Judge Forbang

Judgment published and entered into the Register on this 25th day of July 2024 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar