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## Tips and Information Newsletter for International Civil Servants

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### The UN Internal Justice System's response to fraud

#### Introduction

The United Nations' zero-tolerance policy towards fraud is rooted in a staff member's duty under the Charter and the Staff Regulations to uphold the highest standards of efficiency, competence, and integrity. UN Tribunals agree that fraud undermines confidence not only in an individual staff member<sup>1</sup> but also in the entire organization.<sup>2</sup> Accordingly, findings of fraud typically lead to the most severe disciplinary sanction: separation from service or dismissal.<sup>3</sup>

This article reviews two recent cases at the UN Appeals Tribunal (**UNAT**), which provide two key learnings on fraudulent conduct and the standard of proof.

#### What is fraud?

Fraud within the United Nations is defined in the summary of Information Circular ST/IC/2016/25 (Anti-Fraud and Anti-Corruption Framework of the United Nations Secretariat) as:

*any act or omission whereby an individual or entity knowingly misrepresents or conceals a material fact to obtain an undue benefit or advantage for himself, herself, itself, or a third party, or to cause another to act to his or her detriment.*

Fraudulent acts are defined in paragraph 5:

*...to include both "fraud", which encompasses any act or omission whereby an individual or entity knowingly misrepresents or conceals a material fact in order to obtain an undue benefit or advantage for himself, herself, itself or a third party, or to cause another to act to his or her detriment; and "corruption", which encompasses any act or omission that misuses official authority or that seeks to influence the misuse of official authority in order to obtain an undue benefit for oneself or a third party.*

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<sup>1</sup> Judgment No. 2025-UNAT-1533, [72]: "Any form of dishonest conduct compromises the necessary relationship of trust between an employer and their employees and will warrant dismissal".

<sup>2</sup> Judgment No. 2025-UNAT-1533, [71]: "fraud undermines the very integrity of the Organization".

<sup>3</sup> UN Compendium of disciplinary measures July 2009-December 2024.

## **Lesson 1: Fraud can exist without personal enrichment; misrepresentation, intent to deceive and actual or potential prejudice suffice**

In *Roig v Secretary-General of the United Nations* ([Judgment No. 2025-UNAT-1533](#)), the UNAT confirmed that fraud can exist even when there is no personal gain. Between 2017 and 2018, while holding leadership roles in both the UN Staff Union (UNSU) and the United Nations Athletic Club (UNAC), Ms Silva Roig repeatedly solicited donations for Staff Day events in her UNSU capacity but secretly directed parts of those funds to the UNAC without informing donors or the Staff Union.

In analysing Ms Roig’s actions, the Tribunal confirmed that there are three constitutive elements of fraud, and that all three elements must exist for conduct to be considered fraud:

1. unlawful making of a misrepresentation.
2. intent to defraud or deceive; and
3. actual or potential prejudice to another.<sup>4</sup>

The UNAT found that Ms Roig’s actions were deliberate, repeated, and misleading. Ms Roig repeatedly misrepresented the nature and destination of donations, both to donors and to the Staff Union. The pattern of her conduct, repeated over two years and across multiple donations, demonstrated **deliberate deception**, and not mere carelessness. Her conduct caused actual prejudice to the Staff Union, which was deprived of funds intended for it by donors who believed they were supporting Staff Day activities.

Ms Roig argued that she had not personally benefited from this diversion of funds but the Tribunal rejected this argument – even though she did not receive any personal enrichment, her conduct constituted fraud and misuse of authority because she used her position to obtain an undue advantage for UNAC, a third party she favoured. The Tribunal emphasized that the absence of personal financial gain does not negate fraud where there has been intentional deception causing prejudice to another party.

Importantly, the Tribunal also drew a clear distinction between intentional and merely careless acts. Fraud requires intention. The UNAT reiterated that: “*dishonest conduct, by definition, involves intent or some element of deception. Deliberate false statements, misrepresentations and failure to disclose required information are inevitably dishonest*”.<sup>5</sup>

## **Lesson 2: The Administration carries a heavy evidentiary burden, requiring clear and convincing proof supported by credible and corroborated evidence**

As with any disciplinary proceedings where termination is a possible outcome, the Administration bears the burden to prove misconduct with clear and convincing evidence.<sup>6</sup> This evidentiary threshold 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*”.<sup>7</sup>

In *Kiingi v Secretary-General of the United Nations* ([Judgment No. 2025-UNAT-1541](#)), the UNAT elaborated on how this standard operates in practice. In this case, the Administration alleged that Ms Mirriam Kiingi had engaged in medical insurance fraud

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<sup>4</sup> Judgment No. 2025-UNAT-1533, [59].

<sup>5</sup> Judgment No. 2025-UNAT-1533, [68], citing Judgment No. 2021-UNAT- 1156, [39].

<sup>6</sup> Judgment No. 2022-UNAT-1187, [55].

<sup>7</sup> Judgment No. 2025-UNAT-1533, [43], citing Judgment No. 2011-UNAT-164, [30].

by submitting fabricated invoices and receipts for COVID-19 treatment for her son. However, the UNDT found, and the UNAT affirmed, that the Secretary-General failed to establish these allegations by clear and convincing evidence. The UNDT found that Ms Kiingi's witnesses were credible, coherent, consistent, and detailed in establishing that an external COVID-19 isolation unit affiliated with the Mukono Centre existed and that her son received treatment there. By contrast, the Secretary-General's witnesses were found to be unreliable: the Administrator of the Mukono Centre lacked the medical knowledge to dispute the existence of the isolation unit, and the Investigation Specialist's investigation was compromised by serious omissions (including failing to visit the isolation unit, failing to consult government authorities, and violating procedural rules by disregarding the prohibition of observing testimonies of other witnesses). The UNDT concluded that these investigative shortcomings undermined the Secretary-General's case, and that the Organization had not proven that the invoices were forged.

The UNAT held that the UNDT's decision was properly based on credibility assessments, which are within the UNDT's discretion as long as it evaluates the relevant factors such as "*candour and demeanour; internal and external inconsistencies in the evidence; the calibre of the testimony compared to that of other witnesses testifying regarding the same events; whether the witness actually observed the events in question; and the 'quality, integrity and independence of the witness' recall of the events*".<sup>8</sup> The Tribunal found that the UNDT correctly applied these factors: the Investigation Specialist's credibility was seriously undermined by major investigative gaps; by contrast, Ms Kiingi and her medical witnesses provided credible accounts of the treatment provided. On this assessment of the evidence, the UNAT agreed that the Secretary-General had not proven fraud to the required standard of 'clear and convincing' evidence.

The UNAT held that in cases involving allegations of fraud, the Organization carries a "*heavy burden*": "*to sustain a finding of fraud, the Organization must establish each element of fraud by clear and convincing evidence showing that the 'commission of the fraud ... [was] highly probable*".<sup>9</sup> This standard is intentionally exacting, reflecting the serious reputational and professional consequences that accompany any finding of fraud. The Tribunal reiterated that doubts or speculative inferences cannot substitute for solid proof. Allegations must be grounded in credible, internally consistent, and independently corroborated evidence.

### **Recovery of financial loss**

In accordance with UN Staff Rule 10.1(b), when the Secretary-General determines that a staff member's conduct amounts to misconduct and that such conduct was wilful, reckless or grossly negligent, the staff member may also be required to reimburse the organization, either partially or in full, for any financial loss suffered as a result of their actions. This provision is frequently applied in fraud cases, reflecting the UN's policy that disciplinary accountability must go hand in hand with financial accountability.

This didn't arise in *Kingii* as the fraud allegations were ultimately not established and was not applicable to *Roig* as she had not personally derived any financial benefit that could be repaid. However, if this had arisen, the organization would have had to establish the following features to demand financial recovery under Staff Rule 10.1(b):

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<sup>8</sup> Judgment No. 2025-UNAT-1541, [50].

<sup>9</sup> Judgment No. 2025-UNAT-1541, [49], citing judgment No. 2024-UNAT-1431, [104].

1. The staff member's conduct constituted misconduct.
2. The misconduct was willful, reckless, or grossly negligent; and
3. The UN suffered a financial loss as a direct result of that conduct.<sup>10</sup>

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<sup>10</sup> Judgment No. UNDT/2025/034, [44].