

UNITED NATIONS DISPUTE T

invoices the Applicant had submitted were not authentic and requested her to return the payments made to her in relation to her claims of 6 June 2018.

8. On 9 July 2019, the Investigations Division of the Office of Internal Oversight
department of

6 December 2021. Therefore, the deadline for the Applicant to file her application before the Tribunal was 6 March 2022.

23. The evidence on record shows that the Applicant filed her application via email on 2 March 2022 with the UNDT Nairobi Registry indicating that due to a technical error

Case No. UNDT/NY/2022/022

Judgment No. UNDT/2023/056

2010-UNAT-

1.2(b)) and failed to exercise reasonable care in utilizing the MIP, a property and asset of the Organization (staff regulation 1.2(q)).

41. The Applicant also failed to ensure that all the claims submitted, including those relating to services for family members, were accurate, complete, and complied

52. The Applicant also alleges that given the small monetary value of the false invoices, she should not have been separated. However, the amount involved in a case of fraud is irrelevant as any staff member of the Organization is expected to uphold the highest standards of integrity.

53. In light of the above, the Tribunal finds that the disciplinary measure imposed on the Applicant was proportionate to the offence committed.

Were the Applicant's due process rights respected during the investigation and the disciplinary process?

54. Elements only come into play in their entirety once a disciplinary proceeding is initiated (*Akello* 2013-UNAT-336), whereas at the preliminary investigation stage, only limited due process rights apply (*Powell* 2013-UNAT-295).

55. After having carefully reviewed the case record, including the investigation process rights were fully respected throughout both phases.

56. The Tribunal notes that OIOS informed the Applicant about the nature of the allegations against her prior to her interview, she was interviewed by OIOS in connection with the investigation and was presented during her interview with documentary evidence against her. She was also given the opportunity to provide additional information to the investigators but did not avail herself of that opportunity.

57. During the disciplinary process, the Tribunal notes that the Applicant was informed of the charges against her and was provided with all the supporting documentation. She was informed of her right to be assisted by counsel and was also given the opportunity to provide her comments on the allegations against her. She was, furthermore, granted an extension of time for the submission of her comments, which were properly considered as reflected in the sanction letter.

58. In her application, the Applicant claims that her due process rights were violated because OIOS did not seek to cooperate with the Moroccan authorities in

the investigation as per art. 50 of the between MINURSO and Morocco. However, since status and conditions of employment are only regulated by the Organization framework, including the Staff Regulations, Staff Rules, and other internal administrative issuances and procedures, her claim is without merit.

59. The Applicant also alleges that was not respected because Cigna The Tribunal considers that this argument is unclear and, as such, the Tribunal will not speculate on the in this respect.

60. The Applicant further asserts that the investigation violated the presumption of innocence because she was not allowed to confront the doctor who prescribed the medication was not required to testify as a witness.

61. The Tribunal notes that ST/AI/2017/1 titled Unsatisfactory Conduct, investigations and the disciplinary process , does not provide for a direct confrontation between the subject and witnesses. Instead, it provides that the subject of the investigation should be given the opportunity to provide her or his comments during the investigation and the disciplinary process, which was done in the present case.

62. Furthermore, the Tribunal considers that the testimony of the doctor is irrelevant to establish the authenticity of the invoices that were purportedly issued by AHP.

63. The Applicant also claims that her due process rights were violated because she was not assisted by counsel during the investigation. In this respect, the Tribunal recalls that this right only kicks in with the initiation of the disciplinary process, that is, once the staff member received the Allegations Memorandum. It is clear from the content of the Allegations Memorandum that the Applicant was duly informed of her right to avail herself of the services of counsel, including OSLA.

64. Lastly, the Tribunal considers that the Applicant
is extinguished after a certain amount of