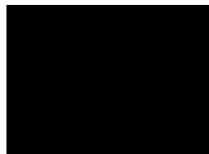


**STRICTLY CONFIDENTIAL**

TO: Ms. Emma Reilly  
A: Human Rights Officer, OHCHR

DATE: 7 October 2016

FROM: Elia Yi Armstrong  
DE: Director, UN Ethics Office



**SUBJECT: Your request for protection against retaliation**  
**OBJET:**

**I. Background**

1. You informed this Office that you initially joined the Organization on 6 January 2012 as Human Rights Officer with the Human Rights Council in OHCHR at the P3 level<sup>1</sup> on a fixed-term appointment. Your appointment was renewed on 6 January 2014 and on 6 January 2016. From 30 September 2013 to 1 December 2015, you held several temporary appointments, mainly at the Development and Economic and Social Issues Branch (“DESIB”) of OHCHR while maintaining a lien on your post at the Human Rights Council Branch.<sup>2</sup>
2. On 15 July 2016, you submitted to the UN Ethics Office a request for protection against retaliation (“PaR”) pursuant to Secretary-General’s bulletin ST/SGB/2005/21, *Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations*.
3. In your submissions, you claimed retaliation from Mr. E.T., Chief, Human Rights Council Branch (“Chief HRCB”); Mr. C.M., Chief, Development and Economic and Social Issues Branch (“Chief DESIB”); Mr. M.D., Chief, Millennium Development Goals Section (“Chief MDGS”); and Mr. N.V., Chief, Human Resources Management Section (“Chief HRMS”) following your reports of misconduct filed to several authorities in the Organization between 2013 and 2016.

<sup>1</sup> Email from Emma Reilly to F.P., *Request for a meeting*, 12 December 2014. In this email you indicate that you are looking to move laterally to a P3 post, which indicates you held at the time a P3 post.

<sup>2</sup> Email from Emma Reilly to Nerea Suero, Re: Your request for protection against retaliation, 22 September 2016.

4. With respect to Mr. E.T., you claim, in particular, that he created a hostile work environment, that he repeatedly attempted to undermine your work, that he refused to add an additional reporting officer in your 2013-2014 e-PAS, that he spread rumors and gossip against you, and that he interrogated your colleagues to find out who had filed a report to OIOS in 2015.
5. With respect to Mr. M.D. and C.M., you claim that they requested changes in your 2015-2016 workplan in order to prevent you from obtaining a rating of “exceeds expectations” and deliberately delayed your 2015-2016 e-PAS; that you have been excluded from consideration for all temporary posts in DESIB and that they created a hostile work environment within DESIB.
6. With respect to Mr. N.V., you claim in particular, that he approached former supervisors of yours inquiring about your teamwork competencies and that he deliberately delayed informing you that the temporary post for which you had been selected was no longer funded.
7. Pursuant to Section 5.2(c) of ST/SGB/2005/21, the role of the Ethics Office, when it receives a complaint of retaliation, is to conduct a preliminary review of the complaint to determine (i) if the complainant engaged in a protected activity, and (ii) if there is a *prima facie* case that the protected activity was a contributing factor in causing the alleged retaliation.
8. On the basis of its comprehensive review of your submitted case materials, the Ethics Office has determined that you engaged in certain protected activities but that there is not a *prima facie* case that the protected activities were a contributing factor in causing the alleged retaliation, pursuant to the requirements of ST/SGB/2005/21, for the reasons listed below.

## **II. Did you engage in a protected activity?**

9. According to Section 2.1 of ST/SGB/2005/21, protection against retaliation applies to any staff member who (a) “[r]eports the failure of one or more staff members to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other administrative issuances, the Financial Regulations and Rules, or the Standards of Conduct of the International Civil Service [...]”; ...” The section further provides: “The individual must make the report in good faith and must submit information or evidence to support a reasonable belief that misconduct has occurred”.
10. Concerning Mr. E.T., you state that you reported the “failure of Mr. E.T. to comply with staff regulation 1.2(j): No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government”; Mr. E.T.’s “instructions to staff of OHCHR to share information on whether members of a list of named human rights defenders would be attending the Human Rights Council with the State X delegation” and “harassment and abuse of authority by Mr. E.T.” as follows:

- i) In person to Mr. B.N. (D-2 formerly responsible for Human Rights Council and Special Procedures Division, OHRM) and Ms. N.P. (former High Commissioner for Human Rights) in February and March 2013;
- ii) In person to Ms. F.P. (former Deputy High Commissioner for Human Rights) in December 2014;
- iii) In writing to OIOS in 25 June 2015;
- iv) In person to Mr. Z.H. (current High Commissioner for Human Rights) on 8 July 2015, followed up by email on 9 July 2015;
- v) In person to Ms. K.G. (current Deputy High Commissioner for Human Rights) on 9 March 2016.<sup>3</sup>

11. Concerning Mr. M.D. and Mr. C.M., you claim that you reported “[a]buse of authority in recruitment” as follows:

- i) In writing to the High Commissioner for Human Rights on 29 July 2015;
- ii) In writing to MEU on 1 September 2015;
- iii) In person to the Deputy High Commissioner for Human Rights on 9 March 2016 to whom you handed a copy of your 1 September 2015 complaint to MEU;
- iv) In writing to ASG/OHRM and to the High Commissioner for Human Rights on 12 July 2016.<sup>4</sup>

### **I. Reports against Mr. M.T.**

#### **A. In-person reports in 2013**

12. With respect to your in-person reports to Mr. B.N. and Ms. N.P. of 2013, you clarified that the misconduct you reported concerned the handling of requests by the Permanent Mission of State X to OHCHR which you describe as follows:

*...They sent to OHCHR a list of named individuals and asked us to confirm whether or not those specific people had requested accreditation, and to also inform them during sessions in case of any changes. It was not a case of post-facto sharing a list of participants (which I imagine does sometimes happen with public meetings), but informing one specific delegation in advance about whether or not named individuals would be travelling to attend the session. I felt this would place anyone travelling from [State X] in danger, as they could simply be disappeared at the airport”<sup>5</sup>. You clarified that “Mr. [E.T.] claimed (including in the emails I have shared previously) that this was within the rules, but refused to contact OLA to seek legal advice. I have already forwarded the email in which I pointed out that it constituted a change to the rules, not the*

<sup>3</sup>PaR Request form, p. 2.

<sup>4</sup>PaR Request form, p. 2.

<sup>5</sup> Email from Emma Reilly to Nerea Suero, *Your request for protection against retaliation*, 22 September 2016.

application of existing ones. The Human Rights Council Branch is in principle the secretariat of the Council, and is supposed to apply the rules decided by that intergovernmental body. Yet, when a group of EU member states explicitly asked Mr. [E.T.] about this practice, he strongly denied that it had ever happened (witnesses are ██████ of the EU delegation and ██████ of the Irish delegation). The current Deputy High Commissioner also confirmed to me in our meeting of 9 March 2016 that Mr. E.T. denied the practice internally to her. When I provided her with evidence that it had happened, on the instructions of Mr. [E.T.], she said 'Sometimes good people make bad decisions.' Thus, it is fairly clear that he was in fact aware that his instruction was against the rules, as if he genuinely believed he was applying the rules as decided by the intergovernmental body he would have no reason to publicly deny it to members of that body, or to deny a practice that was well-known to have occurred internally once there was a change in HC.<sup>6</sup>

13. When asked by this Office to specify the relevant standard procedure that you alleged was violated by this practice, you stated:

... There is no written standard operating procedure. This was the standard process followed, and resolution 5/1 of the Human Rights Council did not set out any new process. I refer to the relevant rules in the attached email, sent to Mr. [E.T.] following a meeting with the [State X] delegation in February 2013 - where there was no change, previous practice was to be followed. Information about participants of other delegations, whether State or NGO, was never shared before the Council. No exception was made for any other delegation, only for the [State X]. There is indeed no list of members of delegations issued after the session, but I do not believe the information is technically confidential at that stage, as those who speak would appear on the public record of the meeting in the form of the webcast<sup>7</sup>. You then added: "I just realised I maybe was not as clear as I should have been in my initial application for whistleblower status. My main issue with Mr. [E.T.]'s application of a different practice for the [State X] delegation was that I felt it would place human rights defenders on the list, as well as their families and colleagues, in danger. I'm not sure which precise rule states that UN staff should not do so, but just wanted to make sure that my primary motivation was not lost in the rather more technical issues of how the practice breached rules of procedure!"<sup>8</sup>

**This was actually abundantly clear in my application, but it was becoming clear that Ms Armstrong, unable to deny the retaliation for this report, planned to reject my application on the basis that UN staff members are not bound by rules set by member states.**

14. In support of your allegations, you provided this Office with the copy of an email that you sent to several colleagues in early 2013 concerning a meeting with representatives of the State X mission in which you state:

<sup>6</sup> Email from Emma Reilly to Nerea Suero, *Your request for protection against retaliation*, 22 September 2016.

<sup>7</sup> Email from Emma Reilly to Nerea Suero, *Re: email to FRO – 2 of 2*, 23 August 2016.

<sup>8</sup> Email from Emma Reilly to Nerea Suero, *Re: email to FRO – 2 of 2*, 24 August 2016.

... [T]hey are still insisting that we should provide them with information on whether or not the named individuals have requested accreditation prior to the session...

Following the meeting, June indicated that she would raise the matter directly with the DHC to ensure a consistent approach to such question throughout the house...

If my understanding is correct, the list of individual participants accredited to sessions of the Commission was not made public prior to the session itself. As rule 7(a) of the Rules of Procedure provides that participation of the NGOs shall be based on arrangements including ECOSOC Res 1996/31 and "practices observed by the Commission on Human Rights", we could perhaps rely on this to maintain the position of requesting documentation to back up any security concerns, as we did for the [State Z] mission...<sup>9</sup>

15. Mr. E.T. responded:

...I was briefed by Emma on your meeting with the [State X] delegation. As far as I am concerned the matter is plain. The [State X] delegation will send us the usual note concerning those individuals who have been or will be accredited to the session. To do this, they need to get a confirmation of the presence of one or more of the listed individuals during HRC12. Since the list of participants to a UN public meeting is by definition public, there is not much we can do to resist their inquiry. The best we can do is delay by few days (until 25 February) the confirmation of those present in March but this will amount to nothing and will exacerbate the [State X] mistrust against us. We'll have more leeway at a later stage and we all know that security will eventually authorize the NGOs participants to attend the session. Finally, I would like to add that I would find it appropriate for the NGO concerned to be informed about the [State X] request... transparency goes both ways.<sup>10</sup>

16. You also provided us with the copy of an email from Ms. J.R., Chief, Civil Society Section, Executive Direction Management, addressed to several directors of OHCHR, including Mr. E.T. and copied to a number of colleagues from different branches within OHCHR in which she stated:

... we had numerous exchanges with the [State X] PM of late with regard to a list of individuals of concern to the [State X] PM.

In brief, they requested to know if a list of 12 or so individuals were accredited to HRC22. Following consultations with [E.T.] and colleagues, we noted that in principle this information is public, and that we would therefore have to notify the PM in due course regarding their participation...

Requests for accreditation were received from the individuals below... and the PM informed this morning. My understanding is that they plan to send a note

<sup>9</sup> Email from Emma Reilly to Eric E.T. and others, *Meeting with State X delegate*, 8 February 2013.

<sup>10</sup> Email from Eric E.T. to J.R. and others, *For further advice – Fw. Re:Re:Re: Please help us check a list of names*, 11 February 2013.

The tense is important. The director of the NGO is sent an email that fails to even identify this as unusual AFTER names are passed to Beijing. What "protective" measures is OHCHR publicly claiming exactly?

*verbale indicated that they pose a security threat (following usual procedures with UNOG)....<sup>11</sup>*

17. You also submitted a copy of the *note verbale* from the Permanent Mission of State X in Geneva to OHCHR requesting OHCHR not to provide accreditation to or meet with a number of individuals belonging to the an NGO which, they alleged, "*is listed as a terrorist organization by the United Nations Security Council*".<sup>12</sup>

18. On the same day, Ms. J.R. wrote to a certain Mr. D. to inform him that "*the Permanent Mission of [State X] has been informed by us, upon their request, about your request to accredit the following individuals for the current session of the Council [...]*"<sup>13</sup>.

I had identified this person as a witness on another issue. He was not even employed by OHCHR at the relevant time.

19. The Ethics Office interviewed M.S., a former Human Rights Officer with the Human Rights Council Branch whom you had identified as a witness in your submissions. M.S. stated that there is no rule in OHCHR governing the accreditation of NGOs to sessions of the Human Rights Council. He recalled that several Permanent Missions submitted lists of names of individuals expected to attend these sessions but was not aware that the request from the State X mission had received a special treatment by OHCHR.<sup>14</sup>

20. In light of your explanations and the information that you submitted in support of your assertions, the Ethics Office notes that the way in which OHCHR handled the request from the Permanent Mission of State X does not appear to violate any rule or principle of the Organization. Therefore, we draw the conclusion that granting this request fell within Mr. E.T.'s discretion.<sup>15</sup>

Check the footnote. The UN Ethics Office sees no distinction between giving names of victims of child sex abuse to the French government to enable investigation of crimes and giving the Chinese government advance information on who plans to speak out to enable their intimidation.

21. The evidence at hand does not support a conclusion that Mr. E.T. exceeded such discretion. We note in this respect that other senior managers at other branches of OHCHR were aware of and applied this practice.

22. Moreover, the evidence shows that additional measures were taken by OHCHR, such as informing the concerned individuals of the State X request and OHCHR's response, in order to minimize any potential detriment caused in confirming the accreditation of certain individuals to the sessions of the Human Rights Council to the Permanent Mission of State X.

**This is incorrect. The individuals were never informed, and never even asked for consent before their names were handed to Beijing. An email was, for a total of three sessions in fifteen years, sent to the NGO director after the fact.**

<sup>11</sup> Email from J.R. to A.K., E.T. and others, *State X PM*, 1 March 2013.

<sup>12</sup> Note verbale from the Permanent Mission of State X to the United Nations Office at Geneva and other International Organizations in Switzerland, 1 March 2013.

<sup>13</sup> Email from J.R. to X.de, *Re. accreditation request – S.T.P.*, 1 March, 2013.

<sup>14</sup> Note to file, telephone interview with M.S., 23 September 2016.

<sup>15</sup> We refer to the similar reasoning followed in determining that sharing information with the French authorities did not constitute improper use of a position of authority by the director of the Field Operations and Technical Cooperation Division of OHCHR in the Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic, *Taking Action on Sexual Exploitation and Abuse by Peacekeepers*, 2 November 2015, p. 60-62.

23. We further note that the decision to confirm the names of certain individuals to the State X mission does not appear to be a unilateral decision imposed by Mr. E.T. but rather a course of action adopted by OHCHR following Mr. E.T.'s advice. Ms. J.R.'s email circulated among several branches of OHCHR stating that "[f]ollowing consultations with [E.T.] and colleagues, we noted that in principle this information is public, and that we would therefore have to notify the PM in due course regarding their participation..." supports this conclusion.
24. Accordingly, the Ethics Office is unable to conclude that the information or evidence you submitted supports a reasonable belief that confirming the attendance to a session of the Human Rights Council of named individuals to the Permanent Mission of State X constituted misconduct.
25. As discussed above, you also contend that the practice of confirming the participation of named individuals to sessions of the Human Rights Council with the Permanent Mission of State X was discontinued following your reports. To support this allegation, you provided this Office with an email sent to you by R.N. from OHCHR on 24 March 2014. You state:

**This is why, after admitting the policy continued in 2017, OHCHR changed its story and claimed it stopped after 2015 - managers realised that in 2016, I briefly believed my reports had worked. Later evidence proved me wrong. That isn't even the email I submitted in support of that erroneous belief.**

*... The colleague who forwarded the email chain below following the death of [C.S.] was aware of my reports to the HC and other senior managers in 2013 to try to stop the practice, hence her 'no comment' remark.*

*You can see that even following the death of a human rights defender who was trying to attend UPR, the concerns remained procedural rather than extending to any consideration as to whether information on human rights defenders should have been shared.<sup>16</sup>*

26. Ms. R.N.'s email contains a series of emails that Mr. E.T. sent Ms. N.P. in March 2014 providing updates on an incident occurred during the Human Rights Council session. In the last one of his emails, Mr. E.T. states:

*... The saga about the longest 20 seconds in the history of the HRC ended up tonight and it did not end up very well. Here is the story:*

*Throughout the past days and hours we explored all possible options on how to deal with the NGO request for a minute of silence in a dignified manner. Yesterday, we were very close to a deal with the [State X] delegation almost agreeing to let the NGOs remaining silent but without standing up for a brief period of time. This did not fly because [State X] could not agree to remain silent at the invitation of the NGOs.*

*Today, we tried every possible way out and eventually agreed with the [State X] side few minutes before the meeting started on the following scenario: [State X] would have made a point of order rejecting the possibility for NGOs to use their speaking time for a minute of silence. This would have been followed by a number of points of order at the end of which the President would have ruled by sending the matter to the bureau while reiterating the importance of 16/21.*

<sup>16</sup> Email from Emma Reilly to Nerea Suero, *Confidential: update 20032014*, 28 September 2016.

*However, when the International Service's delegate ended his statement, the carefully written script derailed rapidly. First, all NGOs stood up and most of them displayed pictures of Ms. [C.S.], something which is obviously against the rules. Second, the points of order accumulated to above 40 from all sides. Third, we were informed midway through that [State X] had new instructions to call for a vote despite the promises made before the meeting.*

*We therefore adjusted ourselves rapidly and the President facing a call for a vote remained in line with the rules of procedure and asked that his ruling, which was a technical one (sending the matter back to the Bureau), be put to a vote. He remained firm on this and the roll-call vote was conducted on these premises. As we had been expected it, 20 countries voted against his ruling.... Hence, the President's ruling was defeated by 13 in favour, 20 against and 12 abstentions.*

*Thereafter we worked very hard and fast to limit the negative impact of the vote by circumscribing it to the President's ruling only. There were other series of points of order but what remains is that the use of the NGO time was not subjected to a new vote which would have been devastating.*

*The consequences of this vote are not anodyne. Tension has risen to a very high level, a President's ruling was defeated, commitments were not held, and the situation of NGOs was weakened. In a way, 24/24 died tonight, but this may a bit too much to say. On the positive side, we should reckon that NGOs stood up for 20 minutes in the room with pictures of Ms. [C.S.] without being prevented from doing so. We now expect many points of order to be made during the general debates to follow and lots of tension around the vote of resolutions at the end of the session.*

*Lastly, I would like to thank all involved for their support and in particular [G.] whose conduct of the vote and the response to a question on NGO practices were impeccable.<sup>17</sup>*

27. The Ethics Office observes nothing in this series of emails supporting the conclusion that the practice with respect to the requests from the Permanent Mission of State X was discontinued.
28. We further note that none of the evidence you provided shows that you reported Mr. E.T. for having accepted financial benefits from the delegation of State Y in February or March 2013.
29. In sum, the Ethics Office finds that the evidence submitted does not support your allegation that you reported misconduct to Mr. B.N. or Ms. N.P. in 2013 and is therefore unable to determine that you engaged in a protected activity at that time.

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<sup>17</sup> Email from E.T. to N.P., Confidential: update 2003014, 21 March 2014 forwarded in email from R.N. to Emma Reilly, Confidential, update 2003014, 24 March 2014.



**B. In-person to Ms. F.P. (former Deputy High Commissioner for Human Rights) in December 2014**

30. In support of your claim you state: “*The entire meeting was witnessed by Mr. [N.V.], Head of human resources. As he has participated in my subsequent harassment, I am not sure of the degree to which he will confirm this*”.<sup>18</sup>
31. You attached the copy of an email you sent Ms. F.P. on 12 December 2014 which in your view “*indicates that the summary was sent, and that I sought to have the meeting at a time when an independent witness could be present but I was wary of attaching initial emails with the instructions to share information with the State X in electronic form, as [E.T.] had explicitly said I should not send them to anyone. I provided print-outs of the email above and the email in which Mr. E.T. shared his view that the information should have been given*”.<sup>19</sup>

In this email, you state:

*... To summarise what I would like to discuss, I was subjected to harassment in my fixed-term post in the Human Rights Council Branch, by the Chief of the Branch. I reported this harassment to human resources in October 2013. My temporary reassignment to RRDD, where I have been since September 2013, will end on December 31. As I have recently been recommended, but not selected, for a number of temporary P-4 positions, I had been confident in my ability to move laterally into one of the open P-3 posts through a competitive process. However, following the announcement in the last all-staff meeting that such a process will not apply in these exceptional circumstances, I am now faced with returning to a situation of harassment. I am therefore left with no option but to make a more formal complaint”. You go on to state “I would also like to discuss whether, in light of the Office’s duty of care to protect me from attacks on both my physical and my mental health, I may be accorded the same priority as those whose posts have been cut...”<sup>20</sup>*

You also refer to the emails you exchanged with Mr. E.T. and other colleagues in February 2013 concerning the sharing of information with the State X delegation which you reportedly provided to Ms. F.P. in support to your claim against Mr. E.T. discussed above.

32. You provided us with a copy of an email that you sent Mr. N.V. with copy to Ms. F.P. on 17 December 2014 in which you state: “[...] *Further to our meeting yesterday with [F.P.], I wanted to propose concrete actions that could be taken to protect me from further harassment [...] The Chief of Branch is aware that I am proposing this solution,*

<sup>18</sup> Email from Emma Reilly to Paul Saukila, *Request for a meeting*, 26 July 2016.

<sup>19</sup> Email from Emma Reilly to Paul Saukila, *Request for a meeting*, 26 July 2016.

<sup>20</sup> Email from Emma Reilly to F.P., *Request for a meeting*, 12 December 2014.

I simply asked that OHCHR stop endangering people, and transfer me. This email is from 2014 - OHCHR lacks even the most basic risk management skills. 33

and would be agreeable to the Deputy High Commissioner using her authority to laterally transfer me to it [...].<sup>21</sup>

You go on to list a number of posts for which you have applied and state: “I also wanted to ensure you had the full list of the P-3 posts advertised in Inspira for which I have applied, and to which I could also simply be laterally transferred [...]”<sup>22</sup>.

You close by stating: “Once again, I wish to reiterate that I am keen to resolve this without resorting to a formal complaint if at all possible [...]”<sup>23</sup>.

The Ethics Office has already determined that your reports of 2013 concerning the policy of confirming the accreditation of named individuals to the sessions of the Human Rights Council with the Permanent Mission of State X did not support a reasonable belief that misconduct occurred. The documentation you provided concerning similar reports made to Ms. F.P. in December 2014 does not provide any additional information which would allow a different conclusion. Accordingly, the Ethics Office is not satisfied that this report constitutes a protected activity as defined by ST/SGB/2005/21.

### C. Written report to OIOS, 25 June 2015

I actually reported endangering people by handing their names to Beijing. But the UN can only be sued for employment issues, and so only considers those. I did not act because I care about the safety of human rights activists, not the retaliation against me for reporting it. OIOS still doesn't get that - see email from Ben Swanson. 34

To support your claim that you filed a report of misconduct against Mr. E.T. to OIOS in June 2015, you provide, among others, a copy of an email that you sent OIOS on 21 June 2016 inquiring as to the status of your complaint.<sup>24</sup> OIOS responded on the same day stating: “You reported possible harassment, which was referred back to you for action under 2008/5...”<sup>25</sup>.

There is no evidence that you undertook further action after OIOS informed you that it would not retain your complaint but referred it back to you for appropriate action under ST/SGB/2008/5.

You claim further that you reported Mr. E.T.'s failure to comply with staff regulation 1.2(j) regarding the acceptance by staff members of gifts or remunerations from Governments.<sup>26</sup> You explain that you reported Mr. E.T.'s “acceptance of financial benefit from the delegation [of State Y]”<sup>27</sup>.

<sup>21</sup> Email from Emma Reilly to N.V., *Follow-up to our meeting*, 17 December 2014.

<sup>22</sup> Email from Emma Reilly to N.V., *Follow-up to our meeting*, 17 December 2014.

<sup>23</sup> Email from Emma Reilly to N.V., *Follow-up to our meeting*, 17 December 2014.

<sup>24</sup> Email from Emma Reilly to OIOS Referrals, *Confidential: OIOS referral under ST/SGB/2008/5 (ID Case No. 0315/15)*, 21 June 2016.

<sup>25</sup> Email from OIOS to Emma Reilly, *Confidential: OIOS referral under ST/SGB/2008/5 (ID Case No. 0315/15)*, 21 June 2016.

<sup>26</sup> PaR Request form, p. 1.

<sup>27</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p.1.

37. With respect to this part of your report, you had provided OIOS with the following information:

*...The name of the bookshop at which Mr. [E.T.] launched his book is Librairie L'Olivier. ... (<http://www.arabooks.ch/archive2012.htm>) ... Mr. [E.T.] is identified as working for the UN, and it expressly states that the food at the event is paid for by the (now former) Ambassador of [State Y] to the UN. As I said, I do not have firm proof of inappropriate influence of the [delegation of State Y], but the combination of this event ...and reports from NGOs close to the [delegation of State Y] that they used to have special arrangements for moving up NGO lists of speakers at the Human Rights Council, or even deleting other NGOs from lists, gives me concern.<sup>28</sup>*

You also provided OIOS with a list of names of OHCHR staff members who attended Mr. E.T.'s book launch.<sup>29</sup>

38. The Ethics Office is of the opinion that the information you provided supports a reasonable belief that Mr. E.T. may have engaged in irregular outside activities if he had not obtained clearance for the presentation of his book. This conclusion is supported by OIOS' statement in June 2016 that "[...] we retained some matters under a separate case but mainly pertaining to outside activities, for which a report was made"<sup>30</sup>.
39. Based on the above, the Ethics Office is satisfied that your report to OIOS of June 2015 pertaining to Mr. E.T.'s book launch constitutes a protected activity under ST/SGB/2005/21.

**D. In-person report to the High Commissioner for Human Rights, 8 July 2015**

40. You claim that "*the meeting [with the High Commissioner] was witnessed by Mr. [M.A.] [...]*".<sup>31</sup> In support of your claim, you provided this Office with the copy of an email you sent Mr. M.A. on 9 July 2015 in which you explain in detail the procedure applied for the accreditation of NGOs and state:

*... The standard procedure in cases where delegations enquire about named individuals would be to verify whether the delegation alleged a security threat, and request evidence of any such threat. This would then be shared with UNOG security, who would objectively determine whether a security threat in fact existed. An email would then be sent to the delegation with the outcome, confirming that should the person seek accreditation, it would be granted or, in case of a threat, refused. This standard procedure was not*

<sup>28</sup> Email from Emma Reilly to U.K., *Confidential: Requested information*, dated 29 June 2015.

<sup>29</sup> Email from Emma Reilly to U.K., *Persons who attended Mr. [E.T.]'s book launch*, 3 July 2015.

<sup>30</sup> Email from OIOS to Emma Reilly, *Confidential: OIOS referral under ST/SGB/2008/5 (ID Case No. 0315/15)*, 21 June 2016.

<sup>31</sup> Email from Emma Reilly to Paul Saukila, *Request for a meeting*, 26 July 2016.

**The reason the UN Ethics Office finds this protected in 2015, but not when I made exactly the same report in 2013, is to ensure they never had to look at the retaliation by Mr. Tistoune from 2013-2015.**

*applied to requests from the [State X] delegation. Prior to every session, the [State X] delegation send a list of named human rights defenders, and request to know whether or not they are registered to attend the session. The list includes high profile figures, but also, increasingly, individuals who delivered statements critical of [State X]'s human rights records at previous sessions. [E.T.] instructed that this information be provided to the delegation prior to every session, despite objections from both me and [J.R.] that this violated the fundamental principle that we should do no harm.*

*At the time of the Commission, a list of participants was annexed to the report of the session. At the Council, the webcast serves as the summary record, and includes the names of speakers as well as their affiliation. There is no equivalent list of members of delegations issued at the end of the session. [E.T.]'s position was that the rules therefore required the secretariat to furnish any delegation that should ask information on whether or not a specific individual had sought accreditation to the Council session. I disagreed with this legal analysis – the list of participants was not made available before the session had started, was public and was not shared on a priority basis with any delegation or group of delegations...*

*I suggested that we seek the views of OLA to avoid setting a precedent that could expose HRDs to danger and the Office to reputational risks. [E.T.] declined this suggestion and instructed me to respond to the request. I did succeed in persuading [E.T.] to allow me to contact the concerned NGOs in order to inform them of the request and OHCHR's intended date of response, to reassure them that OHCHR did not consider the individuals to be a security threat, to offer to meet or speak with them to discuss any concerns and to provide information on how to report any reprisals as well as the (very limited) possible responses of OHCHR in such cases. While NGOs expressed their appreciation for the information, it could only ever mitigate potential harm. I also waited until the last possible moment to share the information with the delegation...<sup>32</sup>*

41. The Ethics Office has already determined that your reports concerning the policy of confirming the accreditation of named individuals to the sessions of the Human Rights Council with the Permanent Mission of State X does not support a reasonable belief that misconduct occurred. The documentation you provided concerning similar reports made to the High Commissioner for Human Rights in July 2015 do not provide any additional information which would allow a different conclusion. The evidence at hand does not show that you reported additional wrongdoing. Accordingly, the Ethics Office is not satisfied that this report constitutes a protected activity as defined by ST/SGB/2005/21.

<sup>32</sup> Email from Emma Reilly to M.A., *Information shared with [State X] delegation*, 9 July 2015.

**E. In-person report to the Deputy High Commissioner for Human Rights, 9 March 2016**

42. To support your claim that you met with the Deputy High Commissioner to report misconduct against Mr. E.T., you provided a copy of an email you sent Ms. K.G. on 14 January 2016 requesting such meeting. In that email you state:

*... Some three years ago, I reported that the Chief of the Human Rights Council Branch had instructed me to provide the [State X] delegation with information on whether or not named individuals were due to travel to attend the Human Rights Council. Such information was not in general shared with other delegations, and I felt that sharing it amounted to facilitation of reprisals against human rights defenders. The [C.S.] case unfortunately demonstrates how such information is likely to be used. I also reported a number of other abuses of authority by the same person, ranging from accepting financial benefit from the [delegation of State Y] to corrupt recruitment practices.*

*Unfortunately the only response of OHCHR has been to permit harassment and slander of me in retaliation for speaking out,*

*[REDACTED] Human resources and the Chief of PSMS have, for three years, simply ignored my requests to meet. While I met with your predecessor, who recognised that harassment had occurred, her only response was that it would be “to my credit” to return to a situation of harassment and “make it work” (I have over the past two and a half years been on a series of temporary posts). I do not feel that whistleblowers should be punished, and would like to discuss both whether it is possible to stop the practice of sharing information in advance with a delegation which may use it to detain and torture human rights defenders, and whether I may be reassigned to another post where I will not be subjected to harassment. Resignation is unfortunately not an option in light of my need of medical insurance...<sup>33</sup>*

43. On 28 April 2016, you wrote to the Deputy High Commissioner for Human Rights following your meeting on 9 March 2016. In your email, you report the difficulties in finding an assignment away from the Human Rights Council Branch. You state:

**This was after I was selected for a post in New York. The post magically disappeared when my name was associated with it, but only after I had already ended the lease on my apartment and moved my furniture. This would happen again in 2017.**

*... I have effectively moved from a position of possibly returning to further harassment to one of possibly returning to further harassment while camping on an inflatable mattress in an empty apartment. While I stopped applying for temporary posts in the brief period during which I thought the threat was finally gone, I have now started applying again. If there is a possibility of a temporary reassignment to a post that is funded, I would be most grateful. For example, I know that I was previously recommended, but not selected, for a six-month temporary post on business and human rights, which was readvertised and to which I applied ...<sup>34</sup>*

<sup>33</sup> Email from Emma Reilly to K.G., *Request for a meeting*, 14 January 2016.

<sup>34</sup> Email from Emma Reilly to K.G., *Follow-up to our meeting*, 24 April 2016.

**In 2016, I was denied whistleblower protection BECAUSE the policy continued. My belief it stopped was proven wrong. This is the UN court position.**

44. You further stated “*I believe the practice was stopped following my report to the (new) High Commissioner, and that the same rules are now applied to the [State X] delegation as apply to every other delegation*”<sup>35</sup>. As discussed above, the evidence you provided in support of this allegation does not support a conclusion that the practice with respect to the requests from the Permanent Mission of State X has been discontinued.
45. The Ethics Office has already determined that your report of OHCHR’s practice with respect to the confirmation of the accreditation of named individuals to the Permanent Mission of State X does not support a reasonable belief that misconduct had occurred.
46. We further note that while you mention Mr. E.T.’s alleged harassment in your emails to Mr. M.A., you did not provide sufficient information or evidence that would support a reasonable belief that such misconduct had occurred.
47. In light of the evidence discussed above, the Ethics Office cannot conclude that your report to the Deputy High Commissioner of 9 March 2016 constitutes a protected activity in the sense of ST/SGB/2005/21.

## **2. Reports against Mr. M.D., Mr. C.M. and Mr. N.V.**

### ***A. Written report to the High Commissioner for Human Rights, 29 July 2015***

48. You claim that you submitted a written report to the High Commissioner via his Executive Office on 29 July 2015 concerning Mr. M.D. and Mr. C.M.<sup>36</sup>
49. You provided this Office with a copy of the email you sent Mr. M.A., Executive Officer at the Executive Office of the High Commissioner for Human Rights, on 29 July 2015, together with a copy of the report attached.<sup>37</sup>
50. On 26 August 2015, Mr. M.A. writes back to you stating: “*Thanks for providing me with your views, and apologies for missing your email, maybe because I was on home leave for two weeks in July. I will bring it to the attention of the HC and the DHC*”<sup>38</sup>.
51. In your report, you argue that the recruitment process for post 15-HRI-OHCHR-40485-R-GENEVA (R) to which you applied was rigged to ensure that another candidate, Ms. S.A.W., be selected. You provide information to support your assertion and, in particular, your state:

<sup>35</sup> Email from Emma Reilly to Nerea Suero, *email to FRO – 2 of 2*, 23 August 2016.

<sup>36</sup> PaR Request form, p. 2.

<sup>37</sup> Email from Emma Reilly to M.A., *Irregularity in ongoing recruitment process*, 29 July 2015.

<sup>38</sup> Email from M.A. to Emma Reilly, *Irregularity in ongoing recruitment process*, 26 August 2015.

... I further approached Mr. [N.V.], head of human resources, with my concerns. His response was that it was not within the power of OHCHR human resources to ensure compliance with the rules, that everyone was aware that some posts were 'reserved' in advance for particular candidates, and that he expected the system to improve in January 2016, from which point interviews would be conducted centrally by job group...  
It should be noted that ... Ms [M.S.W.] ... is in turn a personal friend of Mr. [M.D.] (P-5, Chief, MDGs Section).<sup>39</sup>

With respect to another post, you claim:

...temporary post 14/OHCHR/166 /GENEVA was reserved by Mr. [B.E.A.] (P-5, Chief, Right to Development Section) for Mr. [B.S.] (P-2, now temporary P-3, Right to Development Section)...  
On 25 March 2015, I was explicitly told by Mr. [B.E.A.] that, while I had been the strongest candidate, the position had been reserved for Mr. [B.S.] to work on a different assignment (financing for development, or FFD), with the prior consent and approval of Mr. [C.M.]...Mr. [B.E.A.] further stated that, while my performance merited an "outstanding" rating, this would not be the rating on my e-PAS, as this was also reserved for Mr. [B.S.] and he could not justify many such ratings...<sup>40</sup>

52. The Ethics Office is satisfied that the information you provided is sufficiently specific to support a reasonable belief that favouritism was applied in the selection processes you described and therefore that you had a good faith belief to report that misconduct had occurred. Accordingly, the Ethics Office determines that your report received by the Executive Office of the High Commissioner for Human Rights on 26 August 2015 constitutes protected activity under ST/SGB/2005/21.

**B. Formal complaint to MEU, 1 September 2015.**

53. The Ethics Office notes that requests for management evaluation filed before MEU do not constitute reports of misconduct before one of the established internal mechanisms designated in Section 3 of ST/SGB/2005/21.

**C. In-person report to the Deputy High Commissioner for Human Rights, 9 March 2016**

54. To support your claim that you met with the Deputy High Commissioner to report misconduct against Mr. M.D. and Mr. C.M., you provided a copy of an email you sent

<sup>39</sup> Attachment entitled *Abuses of authority in recruitment against post 15-HRI-OHCHR-40485-R-GENEVA (R)* attached to Email from M.A. to Emma Reilly, *Irregularity in ongoing recruitment process*, 26 August 2015.

<sup>40</sup> Attachment entitled *Abuses of authority in recruitment against post 15-HRI-OHCHR-40485-R-GENEVA (R)* attached to Email from M.A. to Emma Reilly, *Irregularity in ongoing recruitment process*, 26 August 2015.

to the Deputy High Commissioner on 28 April 2016 following up on your meeting of 9 March 2016. In that email you state:

*... Following my complaint to UNDT, when I initiated the mid-point review, my FRO (who was named in the complaint) returned my previously agreed workplan, instructing me to change the goals. This was several months after the end of my assignment, meaning that I would be judged against criteria that were never discussed.*

*He also informed me that the FRO for my subsequent temporary assignment was to be changed to a staff member at the same level...*

*I worked extremely long hours to develop the attached indicators proposal in time for it to have an impact on the final outcome.... I am fully aware of the gossip spread about me following my complaint to UNDT...*

55. This email shows that the concerns you raised with the Deputy High Commissioner pertain to the procedure applicable to your annual performance evaluation. These appear to be purely administrative issues which would not amount to misconduct. You may have the opportunity to submit the concerns you raise in this email to a rebuttal panel when your e-PAS is completed.

***D. Complaint of harassment and abuse of authority to ASG/OHRM and High Commissioner for Human Rights, 12 July 2016***

56. You claim the following: “[t]his complaint was in fact submitted on 12 July 2016, with annexes following on 14 July 2016. The response from ASG/OHRM [...] on 20 July 2016 was that I should submit the complaint directly to the High Commissioner, which I did on the same date (20 July 2016). I have yet to receive any response [...]”<sup>41</sup>.
57. You provided this Office with a copy of the report you sent to ASG/OHRM<sup>42</sup>, as well as a copy of the email that you sent the High Commissioner on 20 July 2016 forwarding the report and requesting that he constitute a panel of investigation into your allegations.<sup>43</sup> In your complaint, you report the “*inappropriate sharing of information on human rights defenders with the [State X] government and the acceptance of financial benefit from the [delegation of State Y] within the Human Rights Council Branch (HRCB)*” and several alleged irregularities in recruitment processes and within DESIB and in the development of your current performance management document.<sup>44</sup>

<sup>41</sup> Email from Emma Reilly to Nerea Suero, *Itemisation of detriments – email 7 of 7*, 9 August 2016.

<sup>42</sup> Interoffice memorandum from Emma Reilly to C.W.W., *Formal complaint of harassment and abuse of authority*, dated 12 July 2015.

<sup>43</sup> Email from Emma Reilly to Z.H., 20 July 2016.

<sup>44</sup> Interoffice memorandum from Emma Reilly to C.W.W., *Formal complaint of harassment and abuse of authority*, dated 12 July 2015.



58. You further informed this Office that on 29 August 2016, you were notified that an investigation would be opened following your complaint of July 2016.<sup>45</sup>
59. Based on the information you provided, the Ethics Office is satisfied that your report to the High Commissioner for Human Rights constitutes a report of misconduct under ST/SGB/2008/5. Consequently, the Ethics Office concludes that by submitting your report of July 2016, you engaged in a protected activity under ST/SGB/2005/21.

### 3. Conclusion

60. In our analysis, and for the reasons provided above, the following do not qualify as protected activities under ST/SGB/2005/21:

#### A) Concerning Mr. E.T.:

- i) In person to Mr. B.N. (D-2 formerly responsible for Human Rights Council and Special Procedures Division, OHRM) and Ms. N.P. (former High Commissioner for Human Rights) in February and March 2013;
- ii) In person to Ms. F.P. (former Deputy High Commissioner for Human Rights) in December 2014;
- iii) In writing to OIOS in 25 June 2015 concerning the practice of sharing information with the Permanent Mission of State X;
- iv) In person to Mr. Z.H. (current High Commissioner for Human Rights) on 8 July 2015, followed up by email on 9 July 2015;
- v) In person to Ms. K.G. (current Deputy High Commissioner for Human Rights) on 9 March 2016.

#### B. Concerning Mr. M.D. and Mr. C.M.

- i) Your report to MEU of 1 September 2015 and
- ii) Your in-person report to Ms. K.G. of 9 March 2016 concerning Mr. M.D. and Mr. C.M.

61. The Ethics Office was satisfied that your following reports constitute a protected activity under ST/SGB/2005/21:

#### A) Concerning Mr. E.T.:

- i) In writing to OIOS in 25 June 2015 concerning Mr. E.T.'s book launch.

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<sup>45</sup> Email from K.W. to Emma Reilly, *Formal complaint of harassment*, 29 August 2016.

**B) Concerning Mr. M.D. and Mr. C.M.:**

- i) Your written report to the High Commissioner for Human Rights of 26 August 2015;
- ii) Your complaint of harassment and abuse of authority to the High Commissioner for Human Rights of 12 July 2016.

**III. Is there a prima facie case that the protected activity was a contributing factor in causing the alleged retaliation?**

62. Pursuant to Section 1.4 of ST/SGB/2005/21, retaliation means any direct or indirect detrimental action recommended, threatened or taken because an individual engaged in a protected activity.

*Allegations of retaliation by Mr. E.T. following your report to OIOS in June 2015*

63. The Ethics Office has determined that you engaged in a protected activity by submitting a written report to OIOS in June 2015 concerning the presentation of a book by Mr. E.T. in December 2012.
64. Accordingly, the Ethics Office will limit its preliminary review of the allegations of retaliation concerning this protected activity. In this respect, you claim the following:

*... Following my second report to OIOS, which led to an investigation in 2015 and a subsequent report, Mr. [E.T.] became aware that staff in his Branch were being called for interviews, and took active steps, including meetings with individual staff members, to find out who was the source of the complaint. This causes me significant concern, as he is now aware that it was I who complained, and my fixed-term post, while temporarily in the Office of the Director of CTMD, remains in his Branch under his direct supervision.<sup>46</sup>*

65. The Ethics Office interviewed Ms. M.P., Human Rights Officer at OHCHR, who you identified as witness of this incident. Ms. M.P. stated that she was not aware of any investigation by OIOS. All she could remember concerning any complaints against Mr. E.T. was a meeting she attended with Mr. E.T. and another staff member of OHCHR. At that meeting, Mr. E.T. reported the High Commissioner had recently informed him that someone had complained to the High Commissioner that Mr. E.T. did not behave appropriately with some of his staff. Mr. E.T. further told Ms. M.P. and her colleague that the High Commissioner had not disclosed to him the name of the complainant or that of the staff Mr. E.T. was reportedly abusing. According to Ms. M.P., this meeting with Mr. E.T. took place sometime during the Human Rights Council session between

**If accurate, this means Prince Zeid did nothing about my report of handing names to Beijing, but only brought up the retaliation against me.**

<sup>46</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p.3.

of March-June 2015. According to Ms. M.P., Mr. E.T. appeared shocked that someone may have accused him of mistreating his staff and could not imagine who that could have been. Ms. M.P. stated that shortly after her meeting with Mr. E.T., you told her that you were the one who had reported Mr. E.T. Ms. M.P. clarified that she never heard of any OIOS investigation after this period March-June 2015 and was never interviewed by OIOS herself in connection with allegations against Mr. E.T.<sup>47</sup>

66. Based on the above, the Ethics Office is unable to conclude that your report to OIOS of June 2015 was a contributing factor to any alleged retaliation.

*Allegations of retaliation by Mr. C.M. and Mr. M.D. following your report to the High Commissioner for Human Rights of 29 July 2015*

67. As discussed above, you claim that you filed a report against Mr. M.D. and Mr. C.M. of 29 July 2015 concerning the recruitment process for the post *15-HRI-OHCHR-40485-R-GENEVA* through Mr. M.A. You state further: “*I was told by Mr. [M.A.], at a meeting held on 22 December 2015, that both Mr. [M.D.] and Mr. [C.M.] were approached, and the decision taken to withdraw the post, prior to my complaint to MEU (by a matter of days, as it appears Mr. [M.A.] had skipped over my initial email)*”<sup>48</sup>.
68. You provided us with copies of the emails you exchanged with Mr. M.A. concerning the scheduling of your meeting of 22 December 2015. On 23 November 2015, you requested a meeting with Mr. M.A. to discuss your assignment following your return from rapid redeployment on 1 December 2015.<sup>49</sup> On 21 December 2015, Mr. M.A. wrote to you: “*tomorrow at 10 is fine with me, we can meet in my office in Motta, 4 floor [...]*”<sup>50</sup>.
69. You also provided a copy of a communication you received from MEU on 2 September 2015 stating: “*[...] On 2 September 2015, the MEU was advised that the aforementioned Post [15-HRI-OHCHR-40485-R-GENEVA] was cancelled due to the decision to re-allocate the Post from Geneva to New York [...]*”<sup>51</sup>.
70. The evidence shows that you met with Mr. M.A. on 22 December 2015. The Ethics Office is satisfied further with your allegation that Mr. M.A. informed you that he had discussed your complaint with Mr. M.D. and Mr. C.M. and a decision had been taken to cancel the recruitment process for the post concerned. This is corroborated by the notification that you received from MEU on 2 September 2015 confirming that the post had been cancelled.

<sup>47</sup> Memorandum to file, *witness phone interview MP*, 3 October 2016.

<sup>48</sup> Email from Emma Reilly to Nerea Suero, *Itemisation of detriments – email 7 of 7*, 9 August 2016.

<sup>49</sup> Email from Emma Reilly to M.A., *Request*, 23 November 2015.

<sup>50</sup> Email from M.A. to Emma Reilly, *Request*, 21 December 2015.

<sup>51</sup> Note from M.M. to Emma Reilly, MEU/496-15 [MM], 2 September 2015.

71. In light of the above, the Ethics Office is satisfied that Mr. M.D. and Mr. C.M. were aware of your 29 July 2015 report to the High Commissioner for Human Rights at least by 2 September 2015.

72. You raise the following allegations of retaliation concerning Mr. M.D. and Mr. C.M.:

*Irregularities in the development of your 2015-2016 e-PAS*

73. You claim:

*.... Mr. [M.D.] and Mr. [C.M.] have refused to comply with the rules and regulations regarding performance review. I do not currently have an e-PAS for the period 2015-16, which may adversely affect my chances of professional development...*

*Mr. [M.D.] has subsequently insisted on retroactive changes to this workplan (he in fact insisted that I copy and paste a workplan prepared by him into Inspira on 15 July 2016, several months after the end of the reporting period. The changes required will prevent any possibility of a rating of "exceeds expectations," as they present work I proposed as part of my initial workplan....*

*I believe that these changes to the e-PAS are being required specifically to ensure that my e-PAS is negative, in order to punish me for reporting the corrupt recruitment process and ex-post-facto justify harassment of me and in particular the hostile working environment created as a direct result of my complaint....<sup>52</sup>*

**To give an idea of the level of competence of the UN Ethics Office, the ePas that I allegedly "have not yet received" is QUOTED on p.25.**

74. The Ethics Office notes that the concerns you raise appear to be administrative in nature as they reflect your disagreement with the way your managers are handling your e-PAS process. Your contentions that the changes in your ongoing e-PAS were intended to prejudice you are not supported by any evidence. Moreover, as you have not yet received your e-PAS document, it cannot be determined whether it is detrimental to you. Your concerns on this point are premature.

75. You claim further:

*... While Mr. [N.F.] contributed [as additional supervisor] positively to my e-PASes of both 2013-14 and 2014-15, he made exceptionally negative, personal comments in his contribution to my ongoing e-PAS of 2015-16, which he completed on 26 July 2016. All work on indicators outlined in the e-PASes relates to the same team in which Mr. [N.F.] now claims I was unable to "develop/maintain collaborative relationship" [sic]. Furthermore, he presents a meeting organised specifically to address my complaint that he interrupted a conversation I was having with external experts in order to tell me to clean the room as being about*

<sup>52</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p.4.

*my communication style. If I was in fact such a negative team member, it is unclear why I was offered, and refused, an extension in the same Section...*<sup>53</sup>

76. The Ethics Office notes that Mr. N.F. does not appear to be named in your report of 26 August 2015. Accordingly, nothing indicates that he may have had any knowledge of said report at that time. Moreover, you claim that “*during our “mid-point review” on 30 October 2015, Mr. [N.F.] explicitly threatened me with a negative review if I continued to object to his behaviour towards me or his new role as FRO, expressly stating that Mr. [C.M.] would support him in this*”<sup>54</sup>. There is therefore, no indication that Mr. N.F.’s actions may have been caused by your report of 26 August 2015.
77. You state further: “*[a]s a result of my initial complaint, I believe Mr. [M.D.] and Mr. [C.M.] have deliberately delayed my e-PAS in order to prevent me from accessing established complaints processes, which is my right as a staff member*”<sup>55</sup>.
78. However, you provide no substantiation to this allegation.

#### ***Irregularities in recruitment***

79. You state:

*... Following my complaint, I have apparently been excluded from consideration for all temporary posts in DESIB, and one post was cancelled immediately following my selection against it (see also para. 23, memo to HC, Annex 13). While Mr. [C.M.] claimed the post would be readvertised, all PBIs in DESIB since my complaint have been used to extend the promotion to P-3 level of a favoured staff member (Mr. [B.S.]), and not used for the purposes for which they were awarded...*<sup>56</sup>

80. In support of this allegation, you provided this Office with the copy of an exchange of emails between you and Mr. C.M. in November 2015.

You write to Mr. C.M. as follows:

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<sup>53</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 4-5.

<sup>54</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 4.

<sup>55</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 5.

<sup>56</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 4-5.

... I understand I was recommended by [I.] for a temporary position working on HRBA to vital statistics [...] Due to my fear that I may be subjected to reprisals following the registration of a complaint with the Dispute Tribunal [...] I had asked that my name not be included in the discussions on availability of funds for this one-month post, without giving a reason for the request. My understanding is that the availability of funds was confirmed [...] on the morning that the memo was sent, but that the funds were then found to be unavailable once my name was associated with the post. I am sure you can understand that this causes me some concern, and was wondering if you could provide clarification on the basis on which the identified funds were found not to be available, and the date on which this finding was made?<sup>57</sup>

On the same day, Mr. C.M. responds:

... I am aware that HRESIS was considering a GTA or consultancy to help out with work related to birth registration and statistics, but it was decided that no such option would be pursued in 2015. The activity in question relates to a mandate report for summer of 2016, and is to be the subject of PBIs that are not yet approved, and, if approved by the 5<sup>th</sup> Committee of the GA, would be funded as from 2016...If a GTA or consultancy is created for this purpose in 2016, candidates will be sought at the time, and a selection will be made based upon the competencies required for the assignment, and the rules of the Organization. I am not aware of any reprisal cases, but would suggest that if any such case exists, they be followed up with the appropriate channels...<sup>58</sup>

81. Based on the information provided, it appears that the non-availability of the funds for the post for which you claim to have been selected was caused by a managerial decision. Nothing in the evidence you provided suggests that this decision was taken for considerations other than operational considerations or in connection with your report of 26 August 2015.

#### *Hostile work environment*

82. You claim that Mr. C.M. and Mr. M.D. “created an exceptionally hostile work environment within DESIB”<sup>59</sup>. To support this allegation, you provide the following example: “in one case (involving Mr. [N.F.]) even interrupting a substantive conversation I was engaged in with external experts in order to instruct me to clean the room. Mr. C.M.’s supervisor, Ms [P.H.], has ignored my multiple requests to meet, I

<sup>57</sup> Email from Emma Reilly to C.M., *Question*, 20 November 2015.

<sup>58</sup> Email from C.M. to Emma Reilly, *Question*, 20 November 2015.

<sup>59</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 5.

*believe on the basis of comments made about me by Mr. [M.D.] and Mr. [C.M.]<sup>60</sup> and provided a copy of the email you sent Ms. F.M. informing her of this incident.<sup>61</sup>*

83. As explained above, the Ethics Office noted that Mr. N.F. was not named in your 26 August 2015 report. There is no indication, therefore, that he may be aware of such report and, as a consequence, that your report may have been a contributing factor to his alleged actions.

***Allegations of retaliation by Mr. M.D. and Mr. C.M. following your complaint to the High Commissioner for Human Rights of 12 July 2016***

84. As discussed above, on 29 August 2016, you were informed by the Office of the High Commissioner for Human Rights that an investigation would be opened following your complaint of 12 July 2016.<sup>62</sup>
85. We note that all the instances of retaliation that you reported to our Office allegedly occurred before 29 August 2016. However, based on the information you provide, nothing indicates that the High Commissioner took any action on your report prior to that date. Therefore, we cannot conclude that Mr. M.D. and Mr. C.M. were aware of your report prior to 29 August 2016. Accordingly, the Ethics Office cannot conclude that your report of 12 July 2016 to the High Commissioner for Human Rights could have been a contributing factor to the alleged retaliation.

***Allegations of retaliation against Mr. N.V.***

86. With respect to Mr. N.V., you state:

*... My report of 29 July 2015 to the High Commissioner ... also included documentation of failures to act by human resources. I believe the failures of human resources to respond even to technical issues, or provide any legal basis for their advice, documented throughout my complaints, amounts to discrimination due to my references to their involvement in abuse of authority in my complaints. In addition to the clear detriment caused by advice from human resources that there was no need for me to have a mid-point review, and failures to respond to my enquiries, I have suffered the following detriments: Mr. [N.V.] directly approached former supervisors inquiring about my teamwork, and refused to respond as to the basis on which he took this action.<sup>63</sup>*

<sup>60</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016:

Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 5.

<sup>61</sup> Email from Emma Reilly to F.M., *Can we meet on Monday morning?*, 18 October 2015.

<sup>62</sup> Email from K.W. to Emma Reilly, *Formal complaint of harassment*, 29 August 2016.

<sup>63</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016:

Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 5-6.

87. We note, however, that even if your statement proved to be true, nothing indicates that Mr. N.V. has any involvement in your management evaluation which is the responsibility of your reporting officers.

88. You further allege retaliation from Mr. N.V. as follows:

*... Failure to inform me that funding for a post I had been offered on 10 March 2016 was not available. A start date of 18 April 2016 had been agreed. On 21 March 2016, human resources were informed that no funding for the post was available. Human resources were aware that I was in the process of cancelling my apartment, and was moving my furniture to my permanent address on 8 April 2016. They were further aware that I was accepting a less favourable mortgage offer on my permanent address in order to ensure I owned it before leaving for New York. Despite this, and my multiple emails asking for details, they informed me only on 4 April 2016 that no funding was available.*<sup>64</sup>

89. You provided this Office with copy of a chain of emails concerning the post you were offered on 10 March 2016 at UNOCC. On 21 March 2016, S.C. from DFS/New York, informed E.G., Human Rights Officer, OHCHR, as follows: “Sorry, no good news so far. FYI, we also had another request recently from another office seeking a Human Rights P-4 post and the missions had confirmed that they did not have any vacant posts. I will send another reminder about this particular request and will advise you”<sup>65</sup>. Ms. E.G. writes to you on 4 April 2016: “[a]s just discussed, please see below message from DFS counterparts, FYI. I had spoken to [N.V.] this morning and up to today, we had no further news”<sup>66</sup>.

90. In the opinion of the Ethics Office, this evidence shows that OHCHR Human Resources were informed of the issue with the UNOCC post on 21 March 2016. Ms. E.G.’s email of 4 April 2016 seems to indicate that the situation concerning your appointment was at that time fluid as they were awaiting confirmation. The Ethics Office finds no intent to delay informing you of the status of your recruitment nor any connection between this process and your report of 26 August 2015.

91. On 12 August 2016, you wrote to our Office to supplement your claim as follows:

*... My FRO and SRO completed their parts of the e-PAS, attached. They are apparently still relying on reports that (1) I was allegedly overheard by a friend of my FRO in New York saying that he was under-prepared - at a time when I was actually in Geneva, and (2) I allegedly raised my voice to the staff member for whom the post I reported was reserved - but nobody who witnessed our entire*

<sup>64</sup> Email from Emma Reilly to Paul Saukila, *Itemisation of detriments – email 1*, 28 July 2016: Attachment entitled: *Supplementary information for request for protection against retaliation of Ms. Emma Reilly*, p. 5-6.

<sup>65</sup> Email from S.C. to E.G., Temporary Recruitment P4 UNOCC New York, 21 March 2016.

<sup>66</sup> Email from E.G. to Emma Reilly, Temporary Recruitment of P4 UNOCC New York, 4 April 2016.



*interaction on that day remembers it. I will forward two related emails to my FRO. In the end-of-cycle discussion, I heard these reports for the first time. [REDACTED] [REDACTED] was a witness to that discussion.<sup>67</sup>*

You provided us with a copy of the draft of the comments made by your reporting officers in your still on-going e-PAS. While the comments are in general positive, we observe the following negative comments in this review:

*.... in the FRO's view the SM's interactions with other staff members were not always consistent with the indicator "Treats all people with dignity and respect" under the "Respect for Diversity" core value [...] taking into account the SM's self-assessment, additional supervisor comments, information available to the FRO relating to the SM's MDGS assignment and the end-of-cycle discussions with the SM, in the FRO's view the SM's performance was not always consistent with the indicator "Works collaboratively to achieve organisational goals." [...] However, taking into account the SM's self-assessment, additional supervisor comments, information available to the FRO during the SM's MDGS assignment and the end-of-cycle discussions with the SM, in the FRO's view the SM's performance was not always consistent with the indicators "Listens to others, correctly interprets messages from others and responds appropriately" and "Asks questions to clarify, and exhibits interest in having a two-way communication." [...] the FRO notes that the SM did not succeed in maintaining effective and respectful collaborative relationships and communication with other team members during her MDGS and METS assignments. It is recommended that the SM give particular attention to these areas of professional development in the future. I note with concern however, the assessments by both Reporting Officers finding that that performance standards for key values and competencies were not achieved during this period, in particular with regard to respect, communications, and teamwork, each of which has been assessed as requiring development. I would, as such, encourage the staff member to pursue opportunities for development of these essential areas, as a matter of priority, and to include these in her workplan and development plan for the next cycle, and to discuss these with her Reporting Officers/Supervisors for the new cycle<sup>68</sup>*

92. The Ethics Office sees no evidence that these comments are connected to any report that your First or Second Reporting Officers may have received indicating that you criticized your First Reporting Officer or that you raised your voice. Moreover, even if such connection existed, there is no indication that your protected activity of 26 August 2015 was a contributing factor to these negative comments.

<sup>67</sup> Email from Emma Reilly to Nerea Suero, *Itemisation of detriments – email 7 of 7*, 12 August 2016.

<sup>68</sup> Document attached to the email from Emma Reilly to Nerea Suero, *Itemisation of detriments – email 7 of 7*, 12 August 2016.

#### IV. Conclusion

93. On the basis of its preliminary review of your request for protection against retaliation, the Ethics Office concludes that:

- i. The following reports concerning Mr. E.T. do not constitute protected activity: your in-person reports of 2013 to Mr. B.N. and Ms. N.P.; your in-person report to Ms. F.P. of December 2014; your report to OIOS of 26 June 2015 concerning the practice of sharing information with the Permanent Mission of State X.
- ii. The following reports concerning Mr. M.D. and Mr. C.M. do not constitute protected activity: your request for management evaluation filed with MEU on 1 September 2015 and your in-person report to Ms. K.G. of 9 March 2016.
- iii. Your reports to ASG/OHRM and to the High Commissioner for Human Rights of July 2016 constitute a protected activity. However, the evidence does not support your allegations that Mr. C.M. or Mr. M.D. was aware of these reports. Therefore, it could not be concluded that these reports could have been a contributing factor to the alleged retaliation;
- iv. Your report to OIOS of June 2015 concerning Mr. E.T.'s outside activities and your reports to the High Commissioner for Human Rights of July 2015 received on 26 August 2015 constitute a protected activity as set out in ST/SGB/2005/2. However, the evidence you provided did not support a conclusion that the protected activities were a contributing factor in causing the alleged retaliation.

94. In summary, this conclusion, given the facts and evidence discussed above, is based on the following reasons:

- i. The evidence you provided this Office does not support your allegations that Mr. E.T. interviewed colleagues at OHCHR to find out the source of the report to OIOS in June 2015;
- ii. The evidence you provided this Office does not support your allegations that Mr. M.D. and Mr. C.M. did not comply with their obligations as managers with respect to your e-PAS, or that they created a hostile working environment;
- iii. The evidence you provided this Office does not support your allegations that you were excluded from consideration for temporary posts;
- iv. The provided evidence does not support your allegation that Mr. N.V. approached third-parties requesting them to make negative reports about your performance;
- v. The evidence does not support your allegation that UNOHCHR purposefully delayed informing you that the post at UNOCC for which you had been selected was no longer available.

95. Therefore, the Ethics Office has determined that your claim does not raise a *prima facie* case that the protected activity was a contributing factor in causing the alleged retaliation, pursuant to ST/SGB/2005/21.