

CONFIDENTIAL

TO: Ms. Emma Reilly
A: Human Rights Officer
Office of the High Commissioner for Human Rights

DATE: 5 October 2020

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

REF: PaR Case ID 20331

SUBJECT: **Referral of your retaliation complaint for investigation following**
OBJET: **review of the Alternate Chair of EPUN**

1. On 25 October 2019, the Ethics Office informed you that it had not found a *prima facie* case of retaliation because the evidence you submitted did not establish a *prima facie* case that your protected activities were a contributing factor in causing any retaliation.
2. On 28 October 2019, you requested the review of the then Alternate Chair of the Ethics Panel of the United Nations (“EPUN”) pursuant to section 9.1 of ST/SGB/2017/2/Rev.1.
3. On 28 July 2020, the UNHCR Ethics Adviser and then Alternate Chair advised me that he found a *prima facie* case of retaliation and included the following recommendations:
 - a) You should be transferred to a regular budget P3 post commensurate with your qualifications and experience within sixty calendar days.
 - b) Any entry on your HR file which restricts or impedes your application for, or consideration for, another post in the future should be removed.
 - c) In order to try to make up ground for the loss of seven years, you should be placed on the roster for genuine consideration in all upcoming P4 posts for which you choose to apply.
 - d) If the Office of the High Commissioner for Human Rights (“OHCHR”) accepts (a), (b) and (c), within sixty calendar days following the issuance of the Alternate Chair’s review, then a referral for investigation is not warranted and not recommended by the Alternate Chair.
 - e) If OHCHR does not accept the *prima facie* determination or if the UN Ethics Office is not informed by OHCHR within sixty calendar days, then the UN Ethics Office must refer the case to OIOS for investigation.
4. Also on 28 July 2020, I transmitted the Alternate Chair’s determination of a *prima facie* case of retaliation (containing the above recommendations) to the Chef de Cabinet.
5. Following a review of the Alternate Chair’s determination and the recommendations therein, the Administration informed me on 21 September 2020, within the sixty-day calendar

Mr. Guterres ignored both the recommendations for my protection and the finding that UN investigators have a conflict of interest. Since July 2020, no investigation has even begun. The UN has no whistleblower protection.

deadline, that it is not prepared to implement the recommendations made by the Alternate Chair.

6. In accordance with the recommendations of the Alternate Chair, I must refer the matter for investigation to OIOS. In accordance with Staff Regulation 1.2(m) and Staff Rule 1.2(q), I do not believe that there is an actual or possible conflict of interest in OIOS conducting the investigation. However, given the public nature of your allegations about the Organization's failure to apply the protection against retaliation policy and that the audio recording referred to in the 21 July 2020 Fox News article is of the Director of the Investigations Division of OIOS, there is at least an appearance of conflict of interest in OIOS conducting an investigation into your request for protection against retaliation.
7. I am accordingly recommending to the Secretary-General that your complaint be referred to an alternative investigating mechanism, in accordance with section 8.2 of ST/SGB/2017/2/Rev.1.
8. Someone from my Office will contact you in accordance with section 8.3 of ST/SGB/2017/2/Rev.1 to determine whether appropriate measures to safeguard your interests should be recommended to the Secretary-General, pending completion of the investigation.
9. Finally, although I disagree with his reasoning, the Alternate Chair found that I had a conflict of interest in conducting the preliminary review and he has communicated this to you. As indicated in my previous messages to you, I am recusing myself in advance from the review of the investigation report in application of section 7.7 of ST/SGB/2017/2/Rev.1, and I have informed the Chef de Cabinet of the same.