



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2022-UNAT-1261

**Widmark J. Valme
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge Graeme Colgan Judge Kanwaldeep Sandhu
Case No.:	2021-1599
Date of Decision:	1 July 2022
Date of Publication:	17 August 2022
Registrar:	Weicheng Lin

Counsel for Appellant:	Sètondji Roland Adjovi
Counsel for Respondent:	Patricia C. Aragonés

JUDGE MARTHA HALFELD, PRESIDING.

1. Mr. Widmark J. Valme contested before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) the Secretary-General's decision to dismiss him from service for serious misconduct with compensation in lieu of notice and with termination indemnity, in accordance with Staff Rule 10.2(a)(viii). Mr. Valme had been found to have: i) used his position of authority as Chief of Communications and Information Technology (CITS) and Geospatial Information and Telecommunication Technologies Services (GITTS) at the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), to unduly influence the continued employment of Ms. FM and Ms. YF; ii) failed to disclose a conflict of interest arising from his relationship with Ms. FM; and iii) attempted to interfere with the OIOS investigation into his conduct. By Judgment No. UNDT/2021/078 dated 30 June 2021, the UNDT dismissed the application.
2. Mr. Valme has appealed to the United Nations Appeals Tribunal (Appeals Tribunal).
3. For the reasons given below, the Appeals Tribunal dismisses the appeal.

Facts and Procedure

4. The events giving rise to the contested decision occurred when Mr. Valme was serving as Chief of CITS and GITTS at MINUSCA between 2014 and 2017.
5. On 13 December 2016, the Investigations Division of the Office of Internal Oversight Services (ID/OIOS) received a report implicating Mr. Valme. Specifically, the complainant reported that on the evening of 12 February 2016, Mr. Valme drugged her and sexually abused her at his private residence in Bangui. During the course of the OIOS investigation, evidence emerged to indicate that Mr. Valme also engaged in recruitment irregularities and/or used his position of authority as the MINUSCA, Chief/GITTS to unduly influence the recruitment of the

6. The OIOS investigation found that there was evidence that Mr. Valme had engaged in recruitment irregularities and/or used his position of authority as the Chief/GITTS to unduly influence the recruitment of the complainant; that a sexual relationship existed between Mr. Valme and Ms. FM, which contributed to Mr. Valme using his position of authority as the Chief/GITTS to unduly, and continuously, influence the recruitment of Ms. FM; and that Mr. Valme, as well as other key witnesses, actively and unduly tried to influence the course of the 001 Tw 10.e.1 (o)4n6l520.7T9tm2.7 (e)-3.3 (r)-0.8 (n-4.3 (nc8 Tw .3 (nc8 Tw .3 (nc7 (o0.8 (e)3]o)-3 (r

THE UNITED NATIONS APPEALS TRIBUNAL

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18. Moreover, the UNDT violated Mr. Valme's right to a fair trial when it made a legal finding on a matter outside the charges. Indeed, the UNDT found at the end of paragraph 60 that Mr. Valme "also violated staff rule 1.2(c) when he manipulated/controlled other staff members who were junior and subordinate to him". This legal finding was not within the allegations and Mr. Valme did not make any argument about it. Had he known of it, he would have put relevant questions to witnesses to demonstrate that those staff members were not under his influence.

57. Mr. Valme asks that the Appeals Tribunal declare the application receivable, vacate the UNDT Judgment and grant his initial prayers.

The Secretary-General's Answer

58. Mr. Valme has not established any errors warranting a reversal of the Judgment. In his appeal, he raises various challenges to the Judgment which aim to minimize or justify his conduct, and which are repetitive of arguments raised before the UNDT.

59. First, there is no merit in his contentions that the UNDT did not consider the totality of the evidence and referred to the evidence in a selective way. The UNDT carefully considered all the evidence before it and Mr. Valme has not identified any evidence that was ignored by the UNDT. Further, there is no evidence on record that the UNDT was biased against Mr. Valme, and Mr. Valme has not identified any on appeal. Mr. Valme advanced a similarly unsubstantiated claim before the UNDT alleging bias in the OIOS investigation and the contested decision. Mr. Valme is simply dissatisfied with the outcome of his case.

60. Second, there is no merit in Mr. Valme's contention that the UNDT only referred to Mr. Valme's testimony. The UNDT found that Mr. Valme's admissions regarding his influence on the recruitment process were corroborated by the evidence from three witnesses. Further, there is no evidence on record or in the Judgment to suggest that the UNDT did not understand the recruitment process. By Mr. Valme's own admissions, he was closely involved in the recruitment process and, as he stated himself, "99.9% [of the time] the [final decision-maker would] sign off" on the recommendations made by him. His admission rather emphasizes how he abused his position of authority and the trust placed in him. Finally, even though Mr. Valme was not the final decision-maker, it was not disputed that his recommendation carried significant weight, which made his non-disclosure of his conflict of interest even more damning.

61. Third, Mr. Valme's claims that the UNDT again failed to consider the totality of the

be shared with OIOS during the interviews, and maintaining an online shared drive containing key dates and evidence, by which they shared only selected information with OIOS.¹

70. These facts, together with the failure to disclose a conflict of interest arising from Mr. Valme's sexual relationship with Ms. FM, despite his continued involvement in her recruitment at GITTS, MINUSCA, led to the OIOS findings which, in relevant parts, are as follows:

110. In respect of the recruitment of Ms. YF, the OIOS investigation found that:

(i) Mr. Valme had engaged in irregular recruitment practices relating to Ms. [YF] by providing to her, prior to her job interview, and via Ms. [FM], the interview questions that were asked during her job interview with [T] for the position of GIS Technician with MINUSCA.

111. In respect of the recruitment of Ms. [FM], the OIOS investigation found that:

(i) Mr. Valme had engaged in irregular recruitment practices relating to Ms. [FM], both in relation to Ms. [FM]'s initial recruitment to MINUSCA, as well as her continued employment, on [temporary job openings (TJOs)] and [temporary duty (TDY)], to MINUSCA. Due to the existence of a sexual relationship between Mr. Valme and Ms. [FM], there was a clear conflict of interest in Mr. Valme's involve[ment] in Ms. [FM]'s recruitment and extension of contracts, which he never disclosed.

112. In respect of the Google online shared drive, the OIOS investigation found that:

(i) The Google shared drive case file contains information that is stored and/or communicated between staff members of the United Nations;

(ii) Evidence was adduced that Mr. Valme, as well as several United Nations witnesses involved in the case, had withheld information and/or evidence relevant to the OIOS investigation, and known to them at the time of their respective OIOS interviews, and/or had misrepresented facts and/or directly lied during their respective OIOS interviews, thus hampering the OIOS investigation; and

(iii) Mr. Valme, as well as key witnesses, actively and unduly tried to influence the course of the OIOS inv

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General rights and obligations

...

(e) By accepting appointment, staff members pledge themselves to discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental obligation of all staff members by virtue of their status as international civil servants;

(f) ... [Staff members] shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. ...

(g) Staff members shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the private gain of any third party, including family, friends and those they favour. Nor shall staff members use their office for personal reasons to prejudice the positions of those they do not favour;

...

Conflict of interest

(m) A conflict of interest occurs when, by act or omission, a staff member's personal interests interfere with the performance of his or her official duties and responsibilities or with the integrity, independence and impartiality required by the staff member's status as an international civil servant. When an actual or possible conflict of interest does arise, the conflict shall be disclosed by staff members to their head of office, mitigated by the Organization and resolved in favour of the interests of the Organization[.]

74. Staff Rule 1.2 (Basic rights and obligations of staff) stipulates in relevant parts the following:

(c) Staff members have the duty to report any breach of the Organization's regulations and rules to the officials whose responsibility it is to take appropriate action and to cooperate with duly authorized audits and investigations. Staff members shall not be retaliated against for complying with these duties.

(d) Disciplinary procedures set out in article X of the Staff Regulations and chapter X of the Staff Rules may be instituted against a staff member who fails to comply with his or her obligations and the standards of conduct set out in the Charter of the United Nations, the Staff Regulations and Staff Rules, the Financial Regulations and Rules and administrative issuances.

Specific instances of prohibited conduct

...

(h) Staff members shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

57. After having heard the oral testimonies of nine people involved in the circumstances of the case, including Mr. Valme and Ms. FM, the UNDT affirmed the contested administrative decision. Specifically, the UNDT found that there was clear and convincing evidence of the following:

- i) Mr. Valme used his position of authority as Chief of GITTS, MINUSCA to unduly influence the continued employment of Ms. FM at GITTS, MINUSCA;
- ii) Mr. Valme failed to disclose a conflict of interest arising from his sexual relationship with Ms. FM during his continued involvement in her recruitment at GITTS, MINUSCA;
- iii) Between 2015 and 2016, Mr. Valme used his position of authority as Chief of GITTS, MINUSCA, to unduly influence the recruitment of Mr. YF as an individual contractor at GITTS, MINUSCA; and
- iv) Between December 2016 and December 2017, Mr. Valme attempted to interfere with the investigation by OIOS into his conduct by asking possible witnesses to gather and share information pertaining to the alleged misconduct and gave them suggestions on how to respond to the investigators during their interviews.

58. The UNDT also concluded that these facts amounted to misconduct as they constituted a

level in the recruitment process for staff members. However, ()Tj-0.021 Tc 0.021 Tw 0.4

66. Mr. Valme further takes issue with the UNDT's finding that he had used his position of authority to influence the recruitment of Mr. YF. According to Mr. Valme, this fact was not established,

Mr. Valme admitted that he had used the shared drive to direct his housemates' testimonies and therefore align statements, including before their OIOS interviews.¹³ Mr. Valme has not established any grounds why the Appeals Tribunal would interfere with this finding. Rather, Mr. Valme repeated his argument of OIOS having violated attorney-client privileges and attorney-work-product privileges' in accessing the Google Drive. However, this claim had been rejected by the UNDT and Mr. Valme does not substantiate his contention that the UNDT erred in this respect.

69. Finally, Mr. Valme's contention that the UNDT violated his due process rights is erroneous. The finding that Mr. Valme had also violated Staff Rule 1.2(c) when he manipulated/controlled other staff members who were junior or subordinate to him was made very clear in the sanction letter and was not raised by the UNDT.¹⁴

70. Having considered all the elements in the record, the Appeals Tribunal finds that the UNDT did not err in its findings and the appeal subsequently fails.

¹³ Impugned Judgment, para. 51.

¹⁴ *Ibid.*, para. 60, and sanction letter, annex, para. 60.

Judgment

71. The appeal is dismissed and Judgment UNDT No. UNDT/2021/078 is affirmed.

Original and Authoritative Version: English

Decision dated this 1st day of July 2022.

(Signed)

Judge Halfeld, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Sandhu

Judgment published and entered into the Registrar on this 17th day of August 2022 in New York, United States.

(Signed)

Weicheng Lin, Registrar