UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES N

Judgment No. 2015-UNAT-509

[redacted]

Counsel for Respondents/Applicants: Thad M. Buyer

Counsel for Appellant/Respondent: Rupa Mitra

JUDGE SOPHIA ADINYIRA, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it two appeals filed by the Secretary-General of the United Nations against three Judgments rendered by the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in New York, one appeal against two Judgments on Receivability dated 22 February 2013 in the case of *Nguyen-Kropp v. Secretary-General of the United Nations* (No. UNDT/2013/028) and *Postica v. Secretary-General of the United Nations* (No. UNDT/2013/029), and the other appeal against Judgment on the Merits (No. UNDT/2013/176) dated 20 December 2013 in the case of *Nguyen-Kropp and Postica v. Secretary-General of the United Nations.* The Secretary-General filed the appeals on 18 February 2014. Pursuant to Order No. 181 (2014) granting the motion from Ms. Ai Loan Nguyen-Kropp and Mr. Florin Postica for a seven-day extension of the time limit for submitting an answer, Ms. Nguyen-Kropp and Mr. Postica filed a consolidated answer on 28 April 2014.

Facts and Procedure

2. At the material time, Ms. Nguyen-Kropp and Mr. Postica were staff members of the Office of Internal Oversight Services (OIOS). Ms. Nguyen-Kropp was a P-3 Investigator and Mr. Postica was a P-5 Senior Investigator and Ms. Nguyen-Kropp's supervisor.

3. In January 2009, a staff member "Ms. X." made a complaint to the Investigation Division (ID), OIOS, alleging that certain physicians within the Medical Services Division (MSD) of the United Nations Secretariat had engaged in the improper prescription of controlled substances or medication.

4. Mr. Postica and Ms. Nguyen-Kropp were assigned with investigating the complaint. During their investigation, Mr. Postica found evidence of irregularities in respect of how the initial evidence provided by Ms. X. had been saved, and suspected that the Officer-in-Charge (OIC) of ID/OIOS, whom Ms. X. had initially contacted, may have tampered with the evidence.

5. On 29 October 2009, Mr. Postica and Ms. Nguyen-Kropp filed a complaint against the OIC of ID/OIOS with the Under-Secretary-General for OIOS (USG/OIOS), accusing the OIC of having mishandled the evidence.

6. Pursuant to the instruction of the USG/OIOS, Mr. Postica and Ms. Nguyen-Kropp's complaint was forwarded to the Professional Practice Section (PPS), OIOS, for investigation.

7. In the notes dated 25 March 2010, the PPS

13. The Dispute Tribunal issued a total of three judgments on Mr. Postica and Ms. Nguyen-Kropp's applications, two dealing with the receivability issue and one dealing with the merits. In the Judgments on Receivability, the Dispute Tribunal determined that the respective applications of Ms. Nguyen-Kropp and Mr. Postica in respect of the decision of 9 April 2010 by the USG/OIOS to conduct an investigation into their conduct were receivable. The UNDT found that the contested decision to initiate an investigation against Ms. Nguyen-Kropp and Mr. Postica was an appealable administrative decision as the launching of a disciplinary investigation concerned rights of the accused staff members. It also found that their requests for management evaluation of 4 October 2010 were not time-barred because Ms. Nguyen-Kropp and Mr. Postica had not received clear notification of the 9 April 2010 decision either prior to, or ev

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The Dispute Tribunal shall be competent
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(a) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms "contract"

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Original and Authoritative Version: English

Dated this 26th day of February 2015 in New York, United States.

(Signed)	*(Signed)*	*(Signed)*
Judge Adinyira, Presiding	Judge Chapman	Judge Simón

Entered in the Register on this 17th day of April 2015 in New York, United States.

(Signed)

Weicheng Lin, Registrar