

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 OIOS investigation. The OIOS investigation, however, found that there was insufficient evidence to substantiate the allegation that Mr. Valme had sexually abused the complainant.

7. On 16 April 2018, OIOS finalized its Investigation Report and referred the report to the Department of Field Support for its consideration. On 21 December 2018, Mr. Valme received a memorandum from the Assistant Secretary-General for Human Resources Management (ASG/HRM) charging him with misconduct. Specifically, it was alleged that: between 2014 and 2017, he used his position of authority as Chief/GITTS, MINUSCA, to unduly influence the continued employment of Ms. FM at GITTS, MINUSCA; between 2015 and 2016, he used his position of authority as Chief/GITTS, MINUSCA, to unduly influence the recruitment of the complainant as an individual contractor at GITTS, MINUSCA, by forwarding her resume for consideration, and providing interview questions to her before the job interview; between 2014 and 2017, he failed to disclose a conflict of interest arising from his sexual relationship with Ms. FM and his continued involvement in her recruitment at GITTS, MINUSCA; and /or between December 2016 and December 2017, he attempted to interfere with the OIOS investigation into his conduct by asking possible witnesses to gather and share information pertaining to the alleged misconduct, and giving them suggestions on how to respond to the investigators during their interviews.

8. Mr. Valme responded to the allegations on 6 March 2019 having been granted extensions of time to do so. He filed additional responses to the allegations on 30 April 2019. On 20 May 2019, Mr. Valme was informed that the Secretary-General had decided 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). Effective 28 May 2019, he was separated from service.

9. On 17 July 2019, Mr. Valme filed an application with the UNDT in Nairobi challenging the Secretary-General's decision. The UNDT heard the case on 23, 24, 25 November 2020; 15 and 16 December 2020; and on 13 April and 17 May 2021 where oral testimony was received

from: Mr. Valme; a GIS Officer, MINUSCA; the then MINUSCA Director of Mission Support (DMS); the Chief Communications Officer, MINUSCA; the then Chief of GITTS Operations, MINUSCA; an Information Management Assistant, GITTS/ MONUSCA; a System Administrator, MINUSCA; and Ms. FM, then working on temporary duty in GITTS/MINUSCA.

10. On 30 June 2021, the UNDT issued Judgment No. UNDT/2021/078, upholding the contested decision. The UNDT found that the established facts constituted clear and convincing evidence of each of the allegations against Mr. Valme, that his actions amounted to misconduct, that the imposed disciplinary measure was proportionate to the Appellant's misconduct, and that there were no due process violations in his case. Accordingly, the UNDT dismissed the application.

11. On 31 August 2021, Mr. Valme filed an appeal, and on 1 November 2021, the Secretary-General filed an answer.

Submissions

Mr. Valme's Appeal

12. The UNDT made several errors in fact. Throughout its motivation, the UNDT chose not to consider the totality of the evidence at its disposal but to refer to the evidence in a very selective way, as if it was trying to justify the outcome at any cost. This shows that there was bias against Mr. Valme who submits that the allegation of sexual exploitation and abuse has never been established and it would be highly unfair to develop any bias on that basis.

13. The UNDT did not consider the totality of the evidence regarding the recruitment of Ms. FM. Mr. Valme made the necessary recommendations for recruitment; however, those recommendations were based on the initiative of Ms. FM's immediate supervisor while the DMS was the final decision-maker. In his testimony, he clearly stated that he was the decision-maker on all recruitment matters and that he does not just accept the recommendations made by the program managers. It was therefore misleading to refer only to Mr. Valme's testimony and to ignore the other relevant evidence.

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.

19. 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

20. 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.

21. 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.

23. Third, Mr. Valme's claims that the UNDT again failed to consider the totality of the evidence when it found that he had failed to disclose his conflict of interest arising from his sexual relationship with Ms. FM , are irrelevant and show a lack of understanding of the concept of impartiality and conflict of interest. At issue were not the opinion or actions of others but Mr. Valme's actions. a N t n s f

27. Finally, the UNDT did not commit any errors in law. Mr. Valme's claim that the UNDT "failed to consider when referring to [Staff Regulation 1.2(e)] that there was no issue about how competent [Ms. FM and the Complainant] were" is inapposite. What is at issue was Mr. Valme's behaviour and conduct, not whether Ms. FM and the complainant were competent for their positions. There is also no merit to Mr. Valme's claim that the UNDT erred in law in finding that Mr. Valme had also violated Staff Rule 1.2(c) when he manipulated/controlled other staff members who s M1 (61Qp-7.6 (s-0.018)Tj Td ()Tj -0.7 TcTc 0.0132.T9o)-2.6 103.63dPw 0JTJ 0 Tcs 1

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

32. 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 T , -0.07.5 (Y)d [(q)-18

General rights and obligations

...

- (e) By accepting appointment, staff members pledge themselves to

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.

37. 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 .

38. The UNDT also concluded that these facts amounted to misconduct as they constituted a violation of Staff Regulations 1.2(b), 1.2(e), 1.2(f), 1.2(g), 1.2(m) and S8 (d)-1. (r)5. (2)4 ((2)g4ts a)0.6 (51)4.5 (

39. In his appeal, Mr. Valme maintains t

Mr. Valme admitted that he had used the shared drive to direct his housemates' testimonies

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