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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2020/049  
UNDT/NBI/2020/085  
Judgment No.: UNDT/2021/134  
Date: 19 November 2021  
Original: English

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**Before:** Judge Eleanor Donaldson-Honeywell

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

KUYA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for the Applicant:**

Sètondji Roland Adjovi, *Etudes Vihodé*

**Counsel for the Respondent:**

Jacob B. van de Velden, AAS/ALD/OHR, UN Secretariat

Andrea Ernst, AAS/ALD/OHR, UN Secretariat







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determination on the merits. The Tribunal held a case management discussion with the parties on 15 September 2021.

19. The parties agreed that the matter could be determined on the papers. They

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3.2 In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:

(e) Where a United Nations staff member develops **concerns or suspicions** regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, **he or she must report such concerns**

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41. There was *prima facie* no basis for that the alleged misconduct was grave enough, if proven, to warrant separation or termination. This is so whether based on the offences charged *per se* or on an examination of the record of information that was available to the decision maker.

*The information before the Authorized Official*

42. The Respondent has confirmed, in disclosures filed pursuant to CMD directions, that transcripts of interviews and the recorded meeting were not part of the information the USG/DMSPC had when deciding on the ALWOP. The only information before the USG/DMSPC was from the Code Cable and the OIOS Memorandum. 71 0 595.32 842.04 reW\*nBT/F3 12 Tf1 0 0 1 123.62 631.66 Tm0 g0 G95 Tm0 g0 G[(o

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## **Conclusion**

51. The Application succeeds on the merits.
52. The Tribunal makes the following consequential orders:
  - a. The decision to place the Applicant on ALWOP for six months is hereby rescinded.
  - b. The Respondent is to pay to the Applicant all salary and entitlements for the period 13 January 2020 to 16 July 2020, save for the period 16 April to 13 May 2020.
  - c. The aforementioned compensation shall bear interest at the United States of America prime rate with effect from the date this Judgment becomes executable until payment of said compensation. An additional five per cent shall be applied to the United States of America prime rate 60 days from the date this Judgment becomes executable.

*(Signed)*

Judge Eleanor Donaldson-Honeywell

Dated this 19<sup>th</sup> day of November 2021

Entered in the Register on this 19<sup>th</sup> day of November 2021

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi