



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2024/033
Judgment No.: UNDT/2025/096
Date: 26 November 2025
Original: English

Before: Judge Solomon Areda Waktolla

Registry: New York

Registrar: Isaac Endeley

OKOH

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Amina Umar, Whitehat Law Practice

Counsel for Respondent:

Elizabeth Gall, BMS/OLS, UNDP

Introduction

1. The Applicant is a former Local Security Assistant with the United Nations Development Programme (“UNDP”) on a fixed-term appointment limited in service to the United Nations Department of Safety and Security (“UNDSS”) in Monguno, Borno State, Nigeria. By application filed on 26 July 2024, he contests the decision dated 3 May 2024 to separate him from service with compensation in lieu of notice and without termination indemnity.
2. On 28 August 2024, the Respondent filed a reply in which he contends that the application has no merit.
3. The parties agreed that a hearing was not needed and that the Tribunal may adjudicate the case based on their written submissions.
4. For the reasons set out below, the Tribunal rejects the application.

Facts

5. Pursuant to the Tribunal’s Order No. 105 (NY/2024) dated 14 October 2024, the parties submitted a jointly signed statement in which they agreed to the following facts:

... On 3 January 2020, the Applicant was appointed as a Local Security Assistant, G-6 Level, under a United Nations Development Programme (UNDP) fixed-term appointment limited in service to the United Nations Department of Safety and Security (UNDSS) in Monguno, Borno State, Nigeria.

... As the Local Security Assistant in Monguno, Borno State, the Applicant’s functions included liaison and coordination with the military, police and national and local authorities.

... Between 13 to 31 March 2023, the Applicant took compensatory time off and annual leave approved by the Organization.

... On 14 March 2023, the Applicant signed and delivered a letter of introduction from a local [non-governmental organization, “NGO”] named Relief Humanitarian and Developmental Initiative (REHUDI) addressed to the Theater Commander, Operations HADIN KAI (the 14 March 2023 letter).

... The signatory of the 14 March 2023 letter is “[the Applicant]” with the title “Executive Director (REHUDI)”.

... The Telephone number appearing at the bottom of the 14 March 2023 letter is the Applicant’s telephone number.

... On 14 March 2023, the letter requested “approval/clearance” for REHUDI to operate as an NGO in the Borno, Adamawa and Yobe (BAY) States which had a ban on operations by the Federal Government.

... On the 23 March 2023, [MG, name redacted for privacy reasons] made a report to [BM, name redacted for privacy reasons], UNDP Nigeria reporting allegations of misconduct by [the Applicant]. [MG] also stated, “I would like the UNDSS staff member to have his contract ended with immediate effect”.

... On 13 April 2023, upon getting the official report from [MG], [FA, name redacted for privacy reasons], Deputy Resident Representative – Operations, UNDP Nigeria contacted the UNDP Office of Audit and Investigations (OAI) Nigeria to investigate [the Applicant].

... On 4 May 2023, the Assistant Administrator and Director, Bureau for Management Services (BMS) placed the Applicant on administrative leave with pay (ALWP) for three months. The Applicant’s ALWP was extended throughout the investigation and disciplinary processes.

... Between April and August 2023, OAI conducted its investigation into allegations of wrongdoing by the Applicant.

... On 25 May 2023, OAI notified the Applicant by letter that he was the subject of an investigation and of the allegations against him.

... On 29 July 2023, OAI obtained REHUDI’s registration record from the Nigerian Corporate Affairs Commission (CAC). The record included the following information:

- A. REHUDI’s email address [redacted for privacy reasons].
- B. The REHUDI trustees include [BCO and LA, names redacted for privacy reasons].
- C. That the name of [the Applicant] was never found as trustees of REHUDI.

... On the 29th day of July 2023, OAI obtained REHUDI’s contact information which includes telephone number as follows [redacted for privacy reasons] on Federal Inland Revenue Service (FIRS) AX Identification Portal.

... That during the course of Investigation, the Applicant informed the OAI that the Email was hacked.

... OAI’s investigation gathered evidence establishing that:

A. The Applicant's Facebook profile lists a person named [BO, name redacted for privacy reasons] as a Facebook friend.

B. From 1 to 7 November 2021, the Applicant transferred and received funds from his bank account to a person named [BCO].

C. That only verbal report from [MG], confirmation of the report from [MB] a former staff of UNDP and the letter dated 14th March 2023 were provided as report against [the Applicant's] actions with the Nigerian Military Commander of the Theatre. None letter from the Commander himself. [sic]

... OAI investigators interviewed the Applicant in the absence of a lawyer representing him.

... On 6 November 2023, OAI sent the Applicant a copy of the draft investigation report and requested that he provide comments and any countervailing evidence by 16 November 2023.

... On 27 November 2023, OAI issued the final investigation report.

... On 12 March 2024, by letter from the Assistant Administrator and Director, BMS, the Applicant was charged with misconduct and asked to provide comments within 10 working days. The Applicant was charged with: Unauthorized outside activities; and Conflict of interest.

... On 21 March 2024, by email, [the Bureau of Management Services, Office of Legal Services, BMS/OLS] informed [the Office of Staff Legal Assistance, OSLA] that the General Counsel and Director, BMS/OLS agreed to extend the deadline to 1 April 2024.

... On 3 May 2024, by letter, the Associate Administrator, UNDP informed the Applicant of the decision to impose upon him the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity in accordance with Staff Rule 10.2(a)(viii).

Considerations

The issues of the present case

6. It is well established in the jurisprudence of the Appeals Tribunal that “the Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review” and that when defining the issues of a case, “the Dispute Tribunal may consider the application as a whole”. See *Fasanella* 2017-UNAT-765, para. 20, as affirmed in *Cardwell* 2018-UNAT-876, para. 23.

7. Accordingly, the basic issues of the present case can be defined as follows:

- a. Did the Associate Administrator, UNDP lawfully exercise his discretion in imposing upon the Applicant the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity, in accordance with staff rules 10.1(a) and 10.2(a)(viii)?
- b. If not, to what remedies, if any, is the Applicant entitled?

The sanction letter

8. In the sanction letter dated 3 May 2024, it is stated that on 12 March 2024 the Applicant was charged with:

- a. Engaging in unauthorized activities; and
- b. Conflict of interest.

9. Following an investigation and an assessment of the evidence, the Associate Administrator, UNDP found that the Applicant's actions rose "to the level of misconduct necessitating the imposition of a disciplinary measure". He also concluded that the Applicant's actions were inconsistent with the standards expected of United Nations staff members and fell short of the standards required for continued employment in the Organization. He therefore considered it appropriate to impose on the Applicant the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity under staff rules 10.1(a) and 10.2(a)(viii).

The Tribunal's limited scope of review of disciplinary cases

10. Under art. 9.4 of the Dispute Tribunal's Statute, in conducting a judicial review of a disciplinary case, the Dispute Tribunal is required to examine: (a) whether the facts on which the disciplinary measure is based have been established by evidence; (b) whether the established facts legally amount to misconduct; (c) whether the sanction is proportionate to the offence; and (d) whether the staff member's due process rights were respected. When termination is a possible outcome, misconduct must be established by clear and convincing evidence, which

means the truth of the facts asserted is highly probable. (In line herewith, see the Appeals Tribunal in *Karkara* 2021-UNAT-1172, para. 51 and similarly in, for instance, *Modey-Ebi* 2021-UNAT-1177, para. 34; and *Khamis* 2021-UNAT-1178, para. 80). The Appeals Tribunal has further explained that clear and convincing proof “requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt—it means that the truth of the facts asserted is highly probable” (see *Molari* 2011-UNAT-164, para. 30). In this regard, “the Administration bears the burden of establishing that the alleged misconduct for which a disciplinary measure has been taken against a staff member occurred” (see *Turkey* 2019-UNAT-955, para. 32).

11. However, “it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him” or otherwise “substitute its own decision for that of the Secretary-General” (see *Sanwidi* 2010-UNAT-084, para. 40). In this connection, the Appeals Tribunal has stated that “the Dispute Tribunal is not conducting a ‘merit-based review, but a judicial review’” explaining that a “[j]udicial review is more concerned with examining how the decision-maker reached the impugned decision and not the merits of the decision-maker’s decision” (see *Sanwidi*, para. 42). Moreover, in assessing the Administration’s exercise of its discretion, “[t]here can be no exhaustive list of the applicable legal principles in administrative law, but unfairness, unreasonableness, illegality, irrationality, procedural irregularity, bias, capriciousness, arbitrariness and lack of proportionality are some of the grounds on which tribunals may for good reason interfere with the exercise of administrative discretion” (see *Sanwidi*, para. 38).

12. Accordingly, the Tribunal will assess the contested decision in light of the criteria set out in art. 9.4 of the Dispute Tribunal’s Statute and the jurisprudence of the Appeals Tribunal.

Whether the facts on which the disciplinary measure is based have been established

Did the Applicant engage in unauthorized outside activities?

13. It is alleged in the sanction letter that the Applicant engaged in outside activities, without seeking prior approval, by acting as the Executive Director of the REHUDI, a local non-governmental organization NGO.

14. The Applicant's main submissions may be summarized as follows:

a. After an initial appointment as Security Operations Centre Operator in 2019, he was appointed as a Local Security Assistant with UNDSS in Monguno, Borno State, Nigeria in 2020. "[D]espite the hostility and security challenges of his duty [s]tation environment", he "diligently performed his duties" and no questions were raised about him. In fact, he "received a commendation award" from the Nigerian military in recognition of his "dedication, effective coordination, and collaborative efforts with the Nigerian military sector 3 command" and this was highlighted in the UNDSS global news bulletin.

b. The Applicant requested and was granted compensatory time off ("CTO") from 13 to 17 March 2023 and took annual leave from 20 to 31 March 2023. Accordingly, "no duty was assigned to him during these days".

c. Sometime in March 2023, acting on behalf of a local NGO named REHUDI, the Applicant signed a letter "as its Executive Director, addressed and submitted same" to the military offices of Operation Hadin Kai in Maiduguri, Borno State. After delivering the letter, the Applicant received a call on his mobile phone from a Navy Captain in charge of civil-military liaison in Operation Hadin Kai asking about the letter. The Applicant explained to the Navy Captain that although he had signed the letter, he was not the Executive Director or owner of REHUDI.

d. Around 23 March 2023, MG, the Deputy Security Adviser of UNDSS in Nigeria, lodged a complaint against the Applicant. MG stated that he had received a letter from BB, another Field Security Associate

based in Abuja, Nigeria alleging that the Applicant had signed a letter as the Executive Director of an NGO and delivered it to Operation Hadid Kai and that this constituted the “offence of conflict of interest and engaging in an unauthorized outside activity”. MG “demanded the immediate termination” of the Applicant’s employment “without any investigation being carried out as he felt it was not necessary”.

e. OAI did not confirm the information provided by the Applicant and his witnesses and did not carry out an in-depth investigation “to verify some facts given by the Complainant in the person of [MG] against [the Applicant]”. The Applicant admitted “that indeed he signed the document on behalf of the Executive Director of a local NGO named REHUDI”. He also explained that this fact alone did not mean he was an employee of the NGO and that he only acted to assist a friend, LA, who was the real Executive Director of the NGO and who “was out of town for his mother’s burial and out of network coverage”. Nonetheless, on 4 May 2023, the Applicant was placed on administrative leave “which was further extended to April 2024”.

f. On 3 May 2024, UNDP issued a sanction letter and imposed upon the Applicant the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity.

15. The Respondent’s main contentions may be summarized as follows:

a. “The United Nations’ humanitarian operations in the BAY States assist over eight million people affected by the armed conflict involving Boko Haram and other non-state actors. UNDSS plays a critical role in ensuring the safety and security of these operations”. The Nigerian Army’s counter-insurgency operation in the BAY States is called Operation Hadin Kai. As of 14 March 2023, the Governor of Adamawa State had imposed a ban on the operations of humanitarian organizations and NGOs in his State due to concerns about political interference during the 2023 elections in Nigeria.

b. The Applicant's functions as a Local Security Assistant in Monguno, Borno State included liaison and coordination with the military, police and local authorities. The Applicant took compensatory time off and annual leave from 13 to 31 March 2023. By his own admission, on 14 March 2023 he delivered a letter from REHUDI to the Theatre Commander of Operation Hadin Kai. The letter requested "approval/clearance" for REHUDI to operate as an NGO in the BAY States. The Applicant signed the letter as "Executive Director (REHUDI)" and the contact telephone number indicated for REHUDI was the Applicant's official UNDSS telephone number.

c. The records of the Nigerian Corporate Affairs Commission ("CAC") establish that REHUDI was incorporated on 20 August 2021, after the Applicant became a staff member of the Organization. REHUDI's contact information at the time of incorporation includes the Applicant's personal telephone number and his personal email address that he provided to UNDP at the time of his recruitment.

d. According to the Respondent, the evidence shows that one of REHUDI's trustees is a lady, BCO, with the same last name as the Applicant. On the Applicant's Facebook profile, he is friends with a lady, BO, with the same first and last name as BCO [but without the middle name with the initial "C"]. The Applicant appears with BO in some photographs dated 25 March 2015 on his Facebook page and in one of his related comments he refers to her as "my sis and luv" [presumably meaning "my sister and my love"]. Further, the Applicant's bank statement indicates transfers of funds between his account and BCO's account from 1 to 7 November 2021. The Respondent submits that the Applicant's denial of a link to BCO, the trustee of REHUDI, is not persuasive and he "has not provided any information regarding the identity of the [BCO] to whom he transferred money".

e. LA, a trustee of REHUDI and friend of the Applicant, submitted an affidavit explaining that he was the real Executive Director of REHUDI but

that he had an urgent need to use the Applicant's contact details on two separate occasions when he would be unreachable. The first occasion was when REHUDI was registered with the CAC in August 2021, and the second was on 14 March 2023 when he asked the Applicant to sign and deliver a letter to the Theatre Commander of Operation Hadid Kai because he had to travel out of town to conclude his mother's burial arrangements. These explanations "are not persuasive or supported by contemporaneous evidence" and LA "does not provide a compelling explanation for the apparent urgent need" to use the Applicant's contact details "when the Applicant purportedly had no connection to REHUDI". LA also "did not provide any information to clarify the identity of his fellow REHUDI trustee, [BCO]".

16. The Tribunal recalls the overall security and political context of the BAY States in northeastern Nigeria in early 2023 as presented in the Respondent's submissions and takes judicial notice of the facts. At that time, the area had been engaged for about a dozen years in an armed conflict involving Boko Haram and other non-state armed groups, and over eight million people were in need of humanitarian assistance and protection. The Nigerian Army's counter-insurgency operation in the BAY States was known as Operation Hadin Kai. According to the United Nations Office for the Coordination of Humanitarian Affairs ("OCHA"), as submitted by the Respondent, northeastern Nigeria presented one of the most complex humanitarian assistance operations in the world at the time, involving multiple United Nations agencies including UNDP and UNDSS, as well as many national and international NGOs. UNDSS was playing a critical role in ensuring the safety and security of the humanitarian operations and aid delivery. As a Local Security Assistant, the Applicant's functions included liaison and coordination with the military, police and local authorities.

17. Moreover, general elections were scheduled in Nigeria in the first quarter of 2023. Due to concerns about political interference in the elections, the Governor of Adamawa State had imposed a ban on the operations of NGOs in his State and, as indicated in the joint statement of agreed facts, the Federal Government of Nigeria

had imposed restrictions on NGOs in the BAY States. This was the background against which the Applicant's actions must be examined.

18. The Tribunal has reviewed the parties' submissions and the evidence on record and notes that the Applicant admits to signing and delivering the letter from REHUDI to the Theatre Commander of Operation Hadin Kai on 14 March 2023. The letter requested "approval/clearance" for REHUDI to operate as an NGO in the BAY States. Not only did the Applicant append his name and signature to the letter as the "Executive Director" of REHUDI, but his official UNDP telephone number is indicated on the letter as the contact number for REHUDI.

19. The Tribunal further notes the Applicant's assertion that he acted on behalf of his friend LA, who he claims was the real Executive Director of REHUDI but was not available to sign or deliver the letter to the Theatre Commander on 14 March 2023 because he was out of town to attend his mother's funeral and was outside of the cellular telephone network coverage area. However, the Applicant has provided no explanation as to why LA could not have signed the letter in his own name even if he required the Applicant to deliver it, or why LA could not have delivered the letter by himself at a later date. The Applicant has also failed to adequately explain why his personal email address and official UNDP telephone number were indicated on the letter as the contact details for REHUDI.

20. According to the evidence before the Tribunal, the records of the Nigerian Corporate Affairs Commission ("CAC") show that REHUDI was incorporated on 30 August 2021, which was after the Applicant became a staff member of the United Nations. At the time of incorporation, the email address given for REHUDI was the same as the Applicant's private email address which he had provided to UNDP at the time of his recruitment. The CAC records also show that the four trustees of REHUDI include LA, who the Applicant admits is his friend; and "BCO", presumed (by the Respondent) to be the Applicant's sister earlier identified as "BO" based on a comment on the Applicant's Facebook page and bank transactions between their accounts. Moreover, the tax records of Nigeria's Federal Inland Revenue Service ("FIRS") include a telephone number for REHUDI which the Applicant admits is his personal telephone number.

21. The Tribunal has considered the various sworn affidavits submitted by the Applicant and is not persuaded by any of them. For instance, the Tribunal gives no credence to the Applicant's contention in his own affidavit that his personal email address "was hacked sometimes in 2019 shortly after [he] commenced working with UNDP" or that he "was shocked" to see that his personal telephone number was used to open REHUDI's tax account with the FIRS. The Tribunal considers that the use of the Applicant's personal email address and phone number as contact details for REHUDI, together with other evidence, establishes a clear link between him and REHUDI. Similarly, the Tribunal is not persuaded by LA's explanation in his affidavit that he used the Applicant's telephone number and email address on two separate occasions, years apart (for the registration of REHUDI in August 2021 and for the 14 March 2023 letter), due to his urgent need to travel outside of the cellular telephone network coverage area on both occasions.

22. The Tribunal has also viewed the photographs from Facebook purportedly depicting the Applicant in the company of his sister BO, as well as the Respondent's submission that one of REHUDI's listed trustees, BCO, bears the same first name and last name as the Applicant's sister (except for the middle name with the initial "C"). However, beyond merely asserting that "[i]t may be reasonably inferred that the Applicant's sister is named [BCO], the same name as one of REHUDI's trustees" the Respondent has not provided any evidence to support the assertion that BO and BCO are one and the same person. The information on the transfer of funds between the Applicant's and BCO's bank accounts in November 2021 is not sufficient to conclusively establish a link with REHUDI. The Applicant has also attempted to counter this assertion by stating that it is common in Nigeria "for multiple persons to share the same name". Therefore, the Tribunal attaches little evidentiary weight to the assertion.

23. Following a careful review of the totality of the evidence, the Tribunal concludes that the Applicant's claim that he had no direct operational involvement with REHUDI is not credible. The Tribunal finds that the Respondent has established by clear and convincing evidence that the Applicant engaged in outside activities, without seeking prior approval, by acting as the Executive Director of REHUDI.

Did the Applicant engage in a conflict of interests?

24. It is alleged in the sanction letter that the Applicant engaged in a conflict of interests firstly, through his association with a local NGO, particularly at the time of Adamawa State's ban on NGO operations, which directly interfered with his ability to perform his official duties as a UNDSS Local Security Assistant. Secondly, his involvement with the NGO gave rise to the perception that he may use information acquired from the Nigerian Army or local authorities in his capacity as a Local Security Assistant for the benefit of a third party, REHUDI. Thirdly, the Applicant's conduct created a direct conflict of interests due to the lack of clarity as to whether, in his dealings with the Army or local authorities, he was acting as a representative of UNDSS or also advancing the interests of REHUDI.

25. The Applicant's main submissions may be summarized as follows:

a. The Applicant was on duly approved certified time off from 13 to 17 March 2023, followed by annual leave from 20 to 31 March 2023, hence "no official duties were interfered with as claimed by the Administration to warrant an offence of conflict of interest".

b. UNDSS "claimed that the willingness of the Army to share information that is essential for UNDSS's ability to ensure the safety and security of humanitarian operations was threatened but no evidence was provided to prove in any way how any operations were threatened as a way that the conflict of interest arose against the Applicant".

c. UNDSS also concluded that the Applicant's conduct created a direct conflict of interest due to the lack of clarity as to whether, in his dealings with the Army or local authorities, he was acting as a representative of UNDSS or was also advancing the interests of REHUDI. However, "[t]here is no certainty nor any evidence provided by [UNDSS] which is the reason why they stated that there is lack of clarity". These are mere assumptions by UNDSS and "hence not a ground to arrive at the disciplinary measure of separation from service" imposed on the Applicant.

d. The Administration stated that it is the perception that the Applicant may be acting in his personal interest, and did not put UNDSS's interests above them at all times, that is the essence of a conflict of interests. This contradicts the definition of a conflict of interest given in the Staff Regulations and Rules.

e. The investigation was based on assumptions and not on facts. The contested decision was based on the actions of "a different person from a different state" and the Applicant is wrongly bearing the consequences. The Applicant "was never stationed in Adamawa [State] but was always stationed in Borno State" and has no connection with that other person.

26. The Respondent's main contentions may be summarized as follows:

a. "The Applicant's unauthorized activities gave rise to an actual conflict of interest between his personal interests as Executive Director of an NGO and the interests of UNDSS to ensure the safety and security of humanitarian operations in the BAY States". The Organization's humanitarian operations are conducted in accordance with the principles of humanity, neutrality, impartiality, and independence. Compliance with these principles is essential for the credibility of the United Nations agencies, including UNDSS, "by distinguishing humanitarian actions from the actions of political, military and other actors".

b. "The Applicant's actual conflict of interest arose in three ways". First, his association with a local NGO, particularly at the time of Adamawa State's ban on NGO operations, had a direct impact on his ability to perform his official duties as a Local Security Assistant. His association with REHUDI created the perception that UNDSS did not respect the principles of neutrality and independence. Second, representatives of the Nigerian Army immediately drew UNDSS's attention to the 14 March 2023 letter signed by the Applicant, indicating that his actions put at risk the necessary confidence and trust in him as a representative of UNDSS in Borno State. Third, the Applicant's link to REHUDI created the perception that he might use information acquired in carrying out his official functions for the gain

of REHUDI. It was thanks to his role with UNDSS that he was able to deliver the letter in person to the Theatre Commander of *Operation Hadin Kai* in Maiduguri. His conduct thus created a direct conflict of interest as it was unclear whether, in his dealings with the Nigerian Army, police or local authorities, he was acting as a representative of UNDSS or was also advancing the interests of REHUDI.

c. The affidavit submitted by a Navy Captain attesting that the Applicant was not associated with REHUDI is “irrelevant” and “immaterial” as the evidence clearly demonstrates that he was associated with REHUDI. Further, it is for the Organization, not the Navy Captain, to assess the impact of the Applicant’s involvement with REHUDI on UNDSS’s operations in the BAY States. Furthermore, MG, the Deputy Security Adviser of UNDSS in Nigeria, immediately notified the Resident Coordinator of the Applicant’s involvement with a local NGO as this conduct risked causing “severe reputation[al] damage” to UNDSS and the United Nations. “There is no need to establish that the Applicant’s actions had a negative effect on cooperation with the [Nigerian] Army or other authorities, or that he used the information for REHUDI’s benefit. It is the risk of these consequences that is the basis for the prohibition of conflict of interest”.

d. Moreover, the Applicant’s assertion that he was on leave at the time when he delivered the 14 March 2023 letter to the Theatre Commander is “not relevant”. The conflict-of-interest assessment is not limited to the Applicant’s actions on one day, but extends to his obligation and ability as a Local Security Assistant to put UNDSS’s interests ahead of his personal interests. Additionally, although a “privileged communication between BMS/OLS and UNDSS” was “inadvertently exhibited to the Investigation Report by OAI”, no mistake was made about the identity of the Applicant in the determination that he had a conflict of interest.

27. The Tribunal again recalls the specific security and political context, including the scale and scope of the humanitarian assistance requirements, of the

BAY States in northeastern Nigeria at the time of the Applicant's alleged actions, as presented by the Respondent. The Tribunal further recalls that the humanitarian activities of the United Nations are conducted in accordance with the principles of humanity, neutrality, impartiality, and independence. Compliance with these principles is essential for the credibility of United Nations agencies such as UNDP and UNDSS. This is what distinguishes their actions from those of the political, military and other actors.

28. As a Local Security Assistant, the Applicant's functions included liaison and coordination with the military, police and local authorities. He was, in many respects, a representative of the Organization in its interactions with these authorities and was therefore required to place the interests of the Organization above his own in these interactions.

29. The evidence before the Tribunal shows that the Applicant engaged in a conflict of interest in at least three ways. First, by being associated with an NGO, REHUDI, particularly at a time when the Governor of Adamawa State and the Federal Government of Nigeria had imposed a ban on the activities of NGOs due to concerns about political interference in the elections that were being conducted at the time. Given the Applicant's official duties as a Local Security Assistant, this association between him and REHUDI created the impression that UNDSS did not respect the principles of neutrality and independence. Second, the Applicant's actions put at risk the necessary confidence and trust that the Nigerian military authorities had placed in him as a representative of UNDSS in Borno State. The fact that the Nigerian Army immediately drew UNDSS's attention to the 14 March 2023 letter supports this view. Third, the Applicants association with REHUDI created the perception that he might use information acquired in carrying out his official UNDSS functions for the gain of REHUDI. In fact, it was as a result of his role in UNDSS that he was able to personally and easily deliver the 14 March 2023 letter to the headquarters of *Operation Hadin Kai* in Maiduguri. Thus, his conduct created a direct conflict of interest as it was unclear whether, in his dealings with the Nigerian Army, police or local authorities, he was acting as a representative of UNDSS or was also advancing the interests of REHUDI.

30. The Tribunal rejects the Applicant's claim that there was no conflict of interest. The affidavit of the Navy Captain attesting that the Applicant was not associated with REHUDI is immaterial because the evidence clearly demonstrates that such an association existed. Moreover, it is not the Nigerian Navy Captain's role to assess the impact of the Applicant's involvement with REHUDI on UNDSS's operations in the BAY States. The fact that the Nigerian Army did not lodge a formal written complaint against the Applicant is irrelevant.

31. The Tribunal will also give no weight to the Applicant's contention that there is no evidence that his conduct regarding the 14 March 2023 letter resulted in any harm to the Organization, or that he used any information obtained from his position with UNDSS for REHUDI's benefit. In the Tribunal's view, there is no need to establish that the Applicant's actions had a negative effect on UNDSS's cooperation with the Nigerian Army or other authorities, or that REHUDI benefited from any information obtained by the Applicant. The inherent risks created by the Applicant's conduct are the essence of the conflict of interest. Indeed, as soon as MG, the Deputy Security Adviser of UNDSS Nigeria, was informed of the Applicant's links to a local NGO, he brought the matter to the attention of the UNDP's Resident Coordinator as the conduct risked causing severe reputational harm to the United Nations in general.

32. Additionally, the fact that the Applicant was on duly approved certified time off and annual leave at the time he delivered the letter on 14 March 2023 does not change his obligation to seek approval prior to engaging in any outside activity. This obligation remains valid throughout his period of employment with the Organization and is not suspended during a period of authorized leave.

33. Furthermore, the Tribunal has reviewed the contemporaneous communications between UNDSS officials in Nigeria and notes that at the time they were primarily concerned with limiting the negative impact of the 14 March 2023 letter on UNDSS's neutrality and reputation.

34. In conclusion, the Tribunal finds that the Respondent has established through clear and convincing evidence that the Applicant engaged in conflict of interest through his association with a local NGO, REHUDI. His conduct created a

direct conflict of interest due to the lack of clarity as to whether, in his dealings with the Nigerian Army or local authorities, he was acting as a representative of UNDSS or also advancing the interests of REHUDI.

Whether the established facts legally amount to misconduct

35. In the sanction letter dated 3 May 2024, the Associate Administrator, UNDP concluded that the Applicant had engaged in unauthorized outside activities in breach of staff regulations 1.2(o) and (p) and staff rules 1.2(s) and (t).

36. Staff regulations 1.2(o) and (p) provide as follows (emphasis in the original):

Outside employment and activities

(o) Staff members shall not engage in any outside occupation or employment, whether remunerated or not, without the approval of the Secretary-General;

(p) The Secretary-General may authorize staff members to engage in an outside occupation or employment, whether remunerated or not, if:

(i) The outside occupation or employment does not conflict with the staff member's official functions or the status of an international civil servant;

(ii) The outside occupation or employment is not against the interest of the United Nations; and

(iii) The outside occupation or employment is permitted by local law at the duty station or where the occupation or employment occurs.

37. In the sanction letter, the Associate Administrator, UNDP also asserted that the Applicant's conduct resulted in an actual conflict of interest in breach of staff regulation 1.2(m) and staff rule 1.2(q).

38. Staff regulation 1.2(m) provides as follows (emphasis in the original):

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.

39. It is undisputed that the Applicant signed the 14 March 2023 letter as the Executive Director of REHUDI, indicating his official UNDSS telephone number as the contact information for the NGO, and that he delivered it to the headquarters of Operation Hadin Kai. It is also undisputed that the Applicant did not seek the approval of the Secretary-General (or a representative of the Secretary-General) prior to signing the letter or involving himself with the NGO. As a Local Security Assistant responsible for liaison with the Nigerian military, police and local authorities, the Applicant's failure to seek prior authorization for his outside activities is a particularly serious form of misconduct given the security and political context of the BAY States at the material time. Not only did the outside activities conflict with the Applicant's functions, but they were also contrary to the interests of the United Nations and not permitted by local law, considering that the activities of NGOs had been banned in the BAY States at the time.

40. Moreover, the evidence before the Tribunal shows that the Applicant, through his deliberate actions, engaged in a conflict of interest by allowing his personal interests to interfere with the performance of his official duties and responsibilities with UNDSS. He also allowed his personal interests to interfere with the integrity, independence and impartiality required by his status as an international civil servant generally, and as a Local Security Assistant specifically. Through his association with REHUDI and his failure to comply with the humanitarian principles of neutrality, impartiality and independence, he risked causing severe reputational damage to the United Nations and negatively impacting the large-scale humanitarian operations being undertaken in the BAY States at the time. The Applicant's actions jeopardized UNDSS's reputation as a neutral and impartial United Nations entity, thereby putting at risk the cooperation and trust it had developed with the Nigerian Army and other authorities. This misconduct had the potential to undermine UNDSS's ability to provide essential services for the humanitarian actors delivering aid and protection to over eight million people in northeastern Nigeria. Further, the Applicant's failure to timely disclose his

involvement with REHUDI also deprived the Organization of the opportunity to mitigate any potential damage to its reputation or operations.

41. Although the Applicant maintains that he was in no way associated with REHUDI and that he was only helping a friend who was out of town to attend his mother's funeral, it has been established by clear and convincing evidence that the Applicant did in fact engage in unauthorized outside activities and in a conflict of interest.

42. Accordingly, the Tribunal finds that the established facts legally amount to misconduct.

Whether the sanction is proportionate to the offence

43. In the sanction letter, the Associate Administrator, UNDP determined that there was clear and convincing evidence establishing that the Applicant engaged in unauthorized outside activities and in a conflict of interest. He also concluded that the Applicant's actions "were inconsistent with the standards expected of [United Nations] staff members and fell short of the standards required for continued employment with the Organization". He therefore considered it appropriate to impose on the Applicant the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity under staff rules 10.1(a) and 10.2(a)(viii).

44. The Applicant submits that the severity of the disciplinary measure is disproportionate to the offence. He avers that for a first-time offender such as himself, the disciplinary measure "was too heavy a price to pay for a minor misconduct". Citing the Dispute Tribunal in *Yisma* UNDT/2011/161, he argues in favour of "the corrective nature of progressive discipline" and asserts that "separation from service or dismissal is not an appropriate sanction for a first offence". He also relies on the ruling of the Appeals Tribunal in *Sanwidi* UNAT-2010-084 to argue that the Dispute Tribunal has the authority to interfere with the Secretary-General's exercise of his discretion in disciplinary matters where the disciplinary measure is not proportionate to the misconduct. Additionally, the Applicant submits that the fact that he received "a commendation award" in

recognition of his “dedication, effective coordination, and collaborative efforts with the Nigerian military sector 3 command”, which was highlighted in the UNDSS global news bulletin, should have been considered as a mitigating factor.

45. The Applicant further asserts that although he admitted that he signed the 14 March 2023 letter and explained that he had only done so on behalf of his friend, the real Executive Director of REHUDI, and who was out of town at the time to attend his mother’s funeral, these factors were not taken into consideration in determining the disciplinary measure. That friend, LA, also submitted an affidavit which was not taken into consideration, nor was he interviewed or questioned by OAI. In fact, none of the witnesses listed by the Applicant were ever invited to an interview or contacted to verify the accuracy of the information the Applicant provided to OAI. He adds that “despite the hostility and security challenges of his duty [s]tation environment”, he “diligently performed his duties” and no questions were ever raised about him. Under the circumstances, he argues that a more appropriate sanction would have been a demotion in grade level instead of being “terminated brutally”.

46. Finally, the Applicant submits that he has been “greatly affected” by the disciplinary measure and that he “is not able to get another job to sustain his family”.

47. The Respondent submits that the Secretary-General “has the discretion to impose an adequate disciplinary measure having regard to the nature and seriousness of the misconduct, the objective of punishment and deterrence, and other considerations, including aggravating and mitigating circumstances”. The disciplinary measure imposed on the Applicant “is proportionate and took into account all relevant considerations”, including the fact that “the nature and seriousness of the Applicant’s misconduct is severe”. The Applicant’s unauthorized outside activities and conflict of interest had a direct link to his functions and the area in which he worked, namely safety and security in Borno State. By seeking permission for REHUDI to operate in Adamawa State at a time when local NGOs were banned from operating in the State, the Applicant’s actions affected a

“sensitive area of United Nations operations” and put at risk UNDSS’s neutrality and independence in carrying out its safety and security operations.

48. The Tribunal recalls that staff rule 10.3(b) provides that “[a]ny disciplinary measure imposed on a staff member shall be proportionate to the nature and gravity of the staff member’s misconduct”. Moreover, under the well-established jurisprudence of the Appeals Tribunal, the Secretary-General has wide discretion to choose the most appropriate disciplinary measure amongst the various measures open to him and the Tribunals do not interfere with that choice. However, the exercise of that discretion is not unfettered, and the Tribunals have the authority to intervene when the sanction imposed is disproportionate or excessive. (See, for instance, *O’Brien* 2024-UNAT-1490, para. 93; and *Mihyar* 2024-UNAT-1462, para. 65).

49. Having carefully reviewed the sanction letter, the Tribunal notes that in deciding on the appropriate disciplinary measure, the Associate Administrator, UNDP took into consideration both aggravating and mitigating factors. In view of the complex humanitarian operations being undertaken in the BAY States at the time, the Applicant’s role as a Local Security Assistant responsible for liaison with the Nigerian military, police and local authorities had special significance. His efforts, in his capacity as Executive Director of REHUDI, to obtain the Nigerian Army’s authorization for the NGO to operate in the same area jeopardized UNDSS’s reputation as a neutral and impartial entity of the United Nations. The Applicant’s conduct had the potential to seriously threaten the cooperation between UNDSS and the Nigerian Army, which could have endangered lives by hindering delivery of humanitarian assistance to over eight million people in northeastern Nigeria, an area characterized by armed conflict. These were considered as aggravating factors.

50. The Associate Administrator, UNDP also considered mitigating factors including the fact that the Applicant was “a relatively junior staff member” and had expressed remorse for signing the 14 March 2023 letter, even though he refused to admit his links to REHUDI or to take responsibility for his actions. The Associate Administrator also noted that the Applicant had received a commendation award

for cooperation with the Nigerian military sector command 3. However, the Applicant's submissions about his high level of performance and his exemplary character were not considered as mitigating factors as they were deemed to be "incongruous given his failure to acknowledge his misconduct and the risks posed to the operations of UNDSS".

51. Further, the Associate Administrator, UNDP observed in the sanction letter that the disciplinary measure is in line with UNDP's past practice regarding proportionality of sanction in similar cases. Likewise, the disciplinary measure aligns with the jurisprudence of the Dispute and Appeals Tribunals, which have upheld the imposition of the most serious measures, including separation from service, in serious cases involving unauthorized activities and conflicts of interest.

52. In light of the above, the Tribunal is satisfied that the Associate Administrator, UNDP considered the relevant matters, including aggravating and mitigating factors, and that the disciplinary measure imposed on the Applicant is proportional to the severity of his misconduct.

Whether the Applicant's due process rights were respected

53. According to the Applicant, the investigation and the disciplinary process were not properly conducted. He asserts that based on information received from someone in the city of Abuja, MG, the Deputy Security Adviser of UNDSS Nigeria, sent UNDP "a complaint email" demanding the immediate termination of the Applicant's employment contract "without any investigation being carried out". OAI subsequently initiated an investigation "only because it is a requirement" under the Staff Regulations and Rules, "and not that they really wanted to find out what really happened".

54. The Applicant further submits that the investigation was based on assumptions rather than on factual information and that, as a result, the contested administrative decision is "weightless and baseless" and "should be null and void". Moreover, there is no evidence that the Nigerian military ever filed any complaint against the Applicant, nor is there any indication of any action taken by the military because of the 14 March 2023 letter from REHUDI. Even when UNDSS "sent a

composed letter” to seek expert advice on the matter concerning the Applicant, it dealt with a “different person from a different state with a different offence”. Thus, the Applicant “is serving [a] disciplinary measure for someone else” and this cannot be allowed as “it is not justice at all”.

55. Furthermore, according to the Applicant, UNDSS and OAI never verified the identities of the trustees of REHUDI and never contacted any of them “to confirm whatever relationship was presumed to have existed” between them and the Applicant. It was merely presumed that the Applicant was an employee of REHUDI, but “[a]ny decision taken on presumption is wrong and cannot be binding on anyone”.

56. Additionally, the Applicant submits that it is well known that under Nigeria’s communication laws, phone numbers that are not used for a period of six months or longer are automatically reassigned to another person. Thus, the phone number that the Applicant used in 2020 when he registered with UNDP “was no longer in use by the Applicant” in 2023 but this fact was not verified by the investigators, for instance, by simply calling the number. Similarly, OAI never checked to see if the lady identified as “BO” in the photograph on the Applicant’s Facebook page is the same as the “BCO” listed as one of REHUDI’s trustees. Further, the information gathered during the investigation was “all hearsay which under the law is never admissible except if there [is] corroborative evidence to support [it]”. In this case, there is “no evidence to support the facts stated by [MG]”. Rather, MG clearly wanted the Applicant’s appointment to be terminated and even gave a time frame for the termination. This shows that MG’s actions were motivated by “[r]acism, [bias], wickedness, partiality and favouritism” against the Applicant.

57. The Respondent contends that the Applicant’s rights under the UNDP Legal Framework were respected throughout the investigation and the disciplinary process. He “was informed of the allegations against him in writing, interviewed as a subject, provided with the draft investigation report and invited by OAI to provide comments and countervailing evidence, which were duly taken into consideration”. During the disciplinary process, the Applicant was provided with the charge letter setting out the charges of misconduct and informing him of his right to seek the

assistance of counsel. He was provided with the supporting documentation and given the opportunity to comment on the charges and to provide exculpatory evidence. The sanction letter shows that the Applicant's comments on the charge letter, the countervailing evidence, as well as the facts established by evidence and the elements of misconduct, were duly considered and addressed. OAI also did disclose to the Applicant the evidence obtained by MG during the UNDSS investigation.

58. The Tribunal has reviewed the evidence in the case file and observes that the investigative and disciplinary processes are well documented:

a. On 13 April 2023, the Deputy Resident Representative of UNDP Nigeria reported to OAI allegations that the Applicant, acting as the Executive Director of REHUDI, had submitted a letter dated 14 March 2023 to the Nigerian military seeking permission to operate in Adamawa State. On 4 May 2023, the Applicant was placed on administrative leave with pay ("ALWP") for an initial period of three months, which was further extended throughout the investigation and the disciplinary process.

b. OAI conducted a formal investigation from April to August 2023. The Applicant was notified, by letter dated 25 May 2023, that he was the subject of an investigation and of the allegations against him. The OAI investigators interviewed the Applicant on 10 August 2023 and on 6 November 2023, and he received a copy of the draft investigation report with a request to provide his comments by 16 November 2023. After reviewing the Applicant's comments, OAI amended the draft investigation report to include additional information. On 27 November 2023, OAI issued the final investigation report to the Office of Legal Services in the Bureau for Management Services ("BMS/OLS") at UNDP.

c. By letter dated 12 March 2024, the Applicant was formally charged with engaging in unauthorized outside activities and in a conflict of interest. After receiving an extension of time, the Applicant, with the assistance of counsel from OSLA, provided his comments on the charge letter on 31 March 2023. On 3 May 2023, the Associate Administrator, UNDP issued

the sanction letter imposing on the Applicant the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity.

59. The Tribunal has also examined the claim that in recommending the immediate termination of the Applicant's employment contract, MG, the Deputy Security Adviser of UNDSS Nigeria, was motivated by "[r]acism, [bias], wickedness, partiality and favouritism" against the Applicant. However, the Applicant has provided no evidence to support this claim. On the contrary, the evidence on record shows that MG's primary concern was that the Applicant's misconduct would "put the United Nations Nigeria and the Resident Coordinator in a bad light" and "could have terrible reputational damage for the United Nations". The Tribunal has not found any evidence of any procedural irregularities that would require the vitiation of the impugned decision.

60. Based on the foregoing, the Tribunal is satisfied that the Applicant's due process rights were respected throughout the investigation and disciplinary process.

Conclusion

61. The application is rejected in its entirety.

(Signed)

Judge Solomon Areda Waktolla

Dated this 26th day of November 2025

Entered in the Register on this 26th day of November 2025

(Signed)

Isaac Endeley, Registrar, New York