Introduction

1.   "# a$$%&'at&on !%ed on 1(Janua)# 2015* t+e A$$%&'ant* a !o)me))o'u)ement Ass&stant ,G-5. &n t+e Un&ted Nat&ons o$u%at&on /und ,0UN/ A1.*)o'u)ement 2e)3&'es ")an'+ ,0 2"1.* A!)&'a team* 4ased &n Co$en+agen* '+a%%enged UN/ A5s de'&s&on not to)e3&e6 +e) 'om$%a&nts o! m&s'ondu't ,0+a)assment and unde)m&n&ng 7+e)81. aga&nst !&3e o! +e) 'o%%eagues &n t+e 2" team* name%# 9)s. V.*)o'u)ement Ass&stant* 9)s. : .* Cont)a't Asso'&ate* 9)s. ; .* Cont)a't&ng and Adm&n&st)at&3e Ass&stant* 9)s. <.*)o'u)ement Ass&stant* and 9). =.*)o'u)ement Ass&stant.

2.   T+e Res$ondent su4m&tted +&s)e$%# on 24 /e4)ua)# 2015. A%so* u$on t+e T)&4una%5s &nst)u't&ons* t+e Res$ondent su4m&tted add&t&ona% do'umentat&on on t+e 'om$%a&nts !%ed 4# t+e A$$%&'ant 6&t+ t+e >!!&'e o! Aud&t and ?n3est&gat&ons 2e)3&'es ,0>A?21. on 25 June 2015.

3.   >n 2(June 2015* t+e T)&4una% &n!o)med t+e $a)t&es t+at t+e 'ase 6ou%d 4e

t+ese sta!! mem4e)s 6e)e 0'onstant!# 4u!!#!ng +e)1 and 0a$$!#!ng e!!o)ts !n o)de) to dest)o# +e) 'a)ee) !n 2"1.

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on 15 December 2014, from the Executive Director, UNAIDS, AB was informed that >A?2 decisions were "outside the scope of review by UNAIDS management". As can be inferred from the reply, the Assistant had also submitted, on 31 October 2014, a request for management evaluation concerning >A?2's decision not to conduct an investigation into her complaint against Ms Rs.

Parties' submissions

22.   The Assistant's principal contentions are:

    a.   The refusal of >A?2 to launch the requested investigation is unfounded, as her complaints were duly documented and the improper behaviour of her colleagues, who were "spreading slanders, bullying, harassment and so on. against her, is evident based on all proof she already submitted on many occasions;

    b.   Her case is not being treated seriously by UNAIDS, and her managers treated her badly as well, instead of showing her support and integrating her into the 2" team; and

    c.   As she already requested maximum compensation in previous cases she filed with the Tribunal, she does not request the "damage compensation" in the present case, but she seeks recognition that she had been subject to harassment and abuse of authority when working at UNAIDS, and that the lack of favourable recommendation from UNAIDS greatly impaired her current job search.

23.   The Respondent's principal contentions are:

    a.   The contested decision of >A?2 was taken in compliance with its UNAIDS 2014 Charter, according to which >A?2 has to operate independently and has discretionary authority with respect to the matters it investigates;

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Legal framework

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4.1   Harassment

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30.   The Tribunal notes that the Applicant's complaint to the D>2 fraud hotline on 1E July 2013 has no impact on the retaliation of her complaints against her 2" colleagues. Firstly, it appears that this complaint was of a general nature, namely about some work problems, and did not specifically mention paras. ;.* paras. :.* paras. <. and para. =. Secondly, it did not meet the requirements of a formal complaint as per under sec. (.4.1 of the ol&'# 6+&'+ requires inter alia, that a formal complaint be made in writing to the Director* >A?2* and state the identity of the alleged offender. Thirdly, the retaliation of each complaint must be assessed individually. A complaint that has been closed does not suspend the time limit to submit further formal complaints.

40.   These complaints essentially contain vague and general allegations attesting of a difficult interpersonal relationship between the Applicant and her colleagues, which are not substantiated by any specific facts. Most of the Applicant's allegations simply reflect the Applicant's own perception of the colleagues and are to a large extent judgemental. Despite [AX]'s efforts to obtain clarifications from the Applicant on her allegations, they remained unsubstantiated.

41.   The Tribunal recalls that in accordance with sec. (.4 of the policy, it is a staff member's responsibility to substantiate complaints to [AX] with a solid description of the factual circumstances, to allow the investigator to have a clear picture of the alleged incidents. The staff member shall clearly identify who were the people involved, where, when and how the events took place, and in which way they affected the staff member's working environment or the staff member's rights.

42.   The Tribunal finds that [AX] properly exercised its discretion in concluding that the Applicant's allegations against her colleagues were insufficient to fall within the scope of the definition of harassment and to prima facie establish misconduct. Accordingly, the complaint did not meet the requirements of sec. (.5.1 of the policy.

43.   The Tribunal finds that the decision of [AX] to close the Applicant's complaint against Ms. ;.* Ms. <.* Ms. :. and Mr. =. as irreproachable was taken

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