

United Nations  Nations Unies

HEADQUARTERS • SIEGE NEW YORK, NY 10017
TEL. : 1 (212) 963.1234 • FAX : 1 (212) 963.4879

**PERSONAL AND
CONFIDENTIAL**

9 November 2021

Dear Ms. Reilly,

I write to convey the decision of the Under-Secretary-General for Management Strategy, Policy and Compliance with respect to the disciplinary process initiated by a memorandum dated 30 July 2021, in which it was alleged that, in defiance of a direct instruction, you engaged in unauthorized communications with external parties in relation to issues concerning the official activities of the Organization. In particular, it was alleged that you gave a number of unauthorized interviews about such issues to various media outlets; you posted about such issues on social media without authorization, and you contacted several Member State representatives about such issues without authorization.

You were provided with a copy of the underlying investigation report, dated 5 April 2021, prepared by a fact-finding panel composed of Mr. Sean Hand and Mr. Luis Enrique Calzada (“Panel”). You were also provided with supporting documentation. You were informed that, if established, your conduct would constitute a violation of Staff Regulations 1.2(f), 1.2(g) and 1.2(i), Staff Rules 1.2(a), 1.2(j) and 1.2(t), as well as Section 4 of ST/AI/2000/13 (“Outside Activities”).

You were asked to provide, within one month of your receipt of the allegations, any written statement or explanation you might wish to give in response. You were advised that, if you needed more time to file your comments, you should make a reasoned request to this end. You were informed that you could avail yourself of the assistance of the Office of Staff Legal Assistance (“OSLA”) and that you could seek the assistance of any other counsel at your own expense. You were advised that if you did not respond to the allegations within the allotted time period, or make a request for extension of time, your case might nevertheless proceed.

The allegations of misconduct memorandum was sent to you on 30 July 2021. Following a one-month extension of time granted to you to provide your response to the allegations of misconduct memorandum, you submitted your response on 30 September 2021.

By letter dated 10 June 2020 you were informed that you were, “not authorized to engage with Member States or contact the media” concerning matters relating to an investigation into complaints which were advanced by you against senior officials of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and which were found not to be supported by sufficient evidence. Based on a thorough review of the entirety of the record, including your comments, and on the basis of the considerations set out in the Annex to this letter, the Under-Secretary-General has concluded that the allegations against you are established by clear and convincing evidence that you have engaged, since 10 June 2020, in several instances of misconduct as detailed in the Annex hereto, including having engaged in unauthorized communications with

external parties in relation to issues concerning the official activities of the Organization.

In light of the foregoing, the Under-Secretary-General has concluded that your actions constituted serious misconduct in violation of Staff Regulations 1.2(f), 1.2(g) and 1.2(i), Staff Rules 1.2(a), 1.2(j) and 1.2(t), as well as Section 4 of ST/AI/2000/13. Moreover, your serious misconduct was intended to damage the reputation and programmatic capacity of the United Nations.

It is noted that you were, throughout the investigation and subsequent disciplinary process, accorded a fair procedure in accordance with the regulations, rules, policies and practices of the Organization. In particular: (a) you were invited by the Panel to an interview on multiple occasions however, you did not accept their invitation to attend an interview; (b) in the allegations memorandum, you were provided with all supporting documentation, were informed of your right to seek the assistance of counsel and were given the opportunity to comment on the allegations against you; (c) you were afforded a one-month extension of time within which to submit your comments on the allegations of misconduct; (d) you provided comments on the allegations of misconduct; and (e) your communications during the investigation and your comments during the disciplinary process were duly considered.

On the basis of your serious misconduct, and having taken into account the principles of consistency and proportionality, as well as the applicability of any aggravating and mitigating factors, the Under-Secretary-General has decided to impose on you the disciplinary measure of separation from service, with compensation in lieu of notice and with one half termination indemnity, in accordance with Staff Rule 10.2(a)(viii) and Annex III (c) of the Staff Regulations and Rules, effective upon your receipt of this letter.

In accordance with Staff Rule 10.3(c), you may submit an application challenging the imposition of the disciplinary measure directly to the United Nations Dispute Tribunal, in accordance with Chapter XI of the Staff Rules.

Detailed reasons for the conclusions about the established allegations and decision are set out in the **Annex** to this letter.

Yours sincerely,



Martha Helena Lopez
Assistant Secretary-General
for Human Resources

Annex

I. Facts and your account of events during the investigation

1. Reference is made to the allegations of misconduct provided to you on 30 July 2021.

II. Your comments on the allegations of misconduct

2. You were instructed by letter dated 10 June 2020 that you were not authorized to engage with Member States or contact the media concerning matters relating to an investigation into complaints which were advanced by you against senior OHCHR officials and which were found not to be supported by sufficient evidence. In contravention of that instruction, you continued to engage in such activities. In your comments, you did not deny that since receiving the letter dated 10 June 2020, you engaged in external communications on social media as detailed in paragraphs 8 and 9 of the allegations of misconduct memorandum, and that you engaged with external media as detailed at paragraph 10 of the allegations of misconduct memorandum. You denied that you handed a letter or transcript to Fox News in July 2020.
3. You admitted that you engaged with Member State representatives as detailed at paragraphs 11(a) to (c) of the allegations of misconduct memorandum and you did not deny the communications listed at paragraphs 11(d) to (k).
4. You claimed that you were a “whistleblower” and you were entitled to report externally as you fulfilled the conditions met in Section 4 of ST/SGB/2017/2/Rev.1 (“Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations”) (“the Policy”).
5. You stated that you had an obligation to report a policy that you considered “breaches international law, the rules of the UN Human Rights Council, and UN rules”. You also claimed that you had an obligation to warn human rights defenders of the “real policy” and you had a right to “correct lies” and defend yourself against defamation.
6. You stated that there were various violations of procedure and due process, and there were conflicts of interest and bias.

III. Considerations

A. The facts are established by clear and convincing evidence

7. It has been established, by clear and convincing evidence, that since the letter dated 10 June 2020, you engaged in conduct as set out in paragraphs 10 and 11 below, including unauthorized communications with external parties in relation to issues concerning the official activities of the Organization. You gave a number of unauthorized interviews about such issues to various media outlets, you posted about such issues on social media without authorization, and you contacted several Member State representatives about such issues without authorization.
8. You were given a direct instruction by letter dated 10 June 2020 from the Under-Secretary-General for Management Strategy, Policy and Compliance (USG/DMSPC), that you were not

authorized to engage in such unauthorized communications, however notwithstanding this instruction you continued to do so.

9. The following pieces of evidence were considered:

- documentary evidence collected during investigation; and
- your comments, including your admissions, made during the investigation and in your response to the allegations of misconduct.

10. Specifically, you are identified as the source of the following unauthorized external activities:

- On or about 21 July 2020, you gave an interview to Fox News.
- On or about 18 September 2020, you gave an interview to the Christian Science Monitor.
- On or about 1 November 2020, you gave an interview to LBC (British radio station).
- On or about 2 November 2020, you gave an interview to Talk East Turkestan.
- On or about 6 November 2020, you gave an interview to Radio Free Asia.
- On or about 8 November 2020, you gave an interview to Conflits France.
- On or about 17 November 2020, you engaged with a journalist from Süddeutsche Zeitung.
- On or about 17 November 2020, you engaged with a journalist from Libération (French newspaper) and provided them with internal OHCHR emails.
- On or about 13 December 2020, you gave an interview to the South China Morning Post.
- On or about 16 January 2021, you gave an interview to The Sunday Guardian.
- On or about 18 January 2021, you gave an interview to Anadolu (Turkish News Agency) and provided them with internal OHCHR emails.
- On or about 26 February 2021, you gave an interview for the Foundations for Defense of Democracies Podcast.
- On or about 2 March 2021, you gave an interview for the Global Liberty Alliance Podcast.
- During June 2020, you sent letters to various delegations.
- On or about 6 July 2020, you sent a letter to Mr. Josep Borell, the High Representative/Vice President of the European External Action Service.

- On 29 July 2020, you sent an email which was copied to the Permanent Representatives of the United States to the United Nations in New York and in Geneva, the Permanent and Deputy Permanent Representatives of the Republic of Ireland to the United Nations in Geneva, a further State Department official, a staffer for the United States Senate Appropriations Committee, and the generic address of the United States Permanent Mission to the United Nations in New York.
- On or about 4 October 2020, you sent a letter to Mr. Raphael Glucksmann, Member of the European Parliament. You also spoke to him on 8 October 2020, during a conference organized by Collectif Éthique Sur L'Étiquette.
- On or about 22 January 2021, you sent a letter to the Austrian Ambassador.
- On or about 22 January 2021, you sent a letter to the French delegation.
- On or about 22 January 2021, you sent a letter to the Swiss Mission.
- On or about 22 January 2021, you sent letters to EU delegations.
- On or about 10 February 2021, you sent a letter to the Permanent Mission of Poland.
- Since 10 June 2020 and 31 January 2021, you posted at least 319 Tweets and Retweets on the social media website, Twitter, setting out unauthorized communications to the public at large.
- On or about 1 October 2020, you posted a critical comment about OHCHR providing the names of activists attending HRC meetings to the Chinese Government on OHCHR's Facebook page.

11. In addition, the following unauthorized external activities have been inferred from the evidence:

- On or about 6 November 2020, you contacted the UK delegation.
- You contacted the European Union (EU) Ombudsman.

12. However, the following external activities have not been established:

- your alleged provision of a letter and transcript to Fox News referred to at paragraph 10(a) of the allegations of misconduct memorandum;
- your alleged contact with the Washington Free Beacon referred to at paragraph 10(d) of the allegations of misconduct memorandum; and
- your alleged contact with Deutsche Welle News referred to at paragraph 10(f) of the allegations of misconduct memorandum.

B. Your conduct amounted to serious misconduct

13. It is established that your conduct violated Staff Regulations 1.2(f), 1.2(g) and 1.2(i), Staff Rules 1.2(a), 1.2(j) and 1.2(t), as well as Section 4 of ST/AI/2000/13 (“Outside activities”).
14. You violated Staff Rule 1.2(a), Staff Rule 1.2(t) and Section 4 of ST/AI/2000/13 as you engaged in outside activities in direct contravention of the instruction given to you by letter of 10 June 2020, and without the prior approval of the Secretary-General including, by engaging in unauthorized communications with external parties in relation to issues concerning the official activities of the Organization. In this regard, you,
 - gave a number of unauthorized interviews to various media outlets;
 - posted on social media without authorization; and
 - contacted Member State representatives without authorization.
15. You violated Staff Regulation 1.2(i) as your unauthorized external communications disclosed information known to you by reason of your official position that you knew or ought to have known has not been made public.
16. You violated Staff Regulation 1.2(f) as you failed to conduct yourself in a manner befitting your status as an international civil servant and you engaged in actions that adversely affected the interests of the Organization. In this regard, you have made several public pronouncements criticizing OHCHR, its staff members and the UN generally and you have encouraged the withholding of funding to the UN.
17. You violated Staff Regulation 1.2(g) as you used your office and knowledge gained from your official functions for private gain i.e. for self aggrandizement.
18. You violated Staff Rule 1.2(j) as you have sought to influence Member States and others to obtain a change from a position taken by the Secretary-General. In this regard, you have sent communications to Members States, *inter alia*, encouraging them to intervene with respect to your concerns involving OHCHR and to limit funding to the UN.
19. That you engaged in such conduct after being instructed by letter dated 10 June 2020 that you were not authorized to engage in such unauthorized communications demonstrates that you knowingly engaged in the misconduct.
20. With respect to your contention that you were entitled to report externally because you are a “whistleblower” and fulfilled the criteria set out in Section 4 of the Policy, this has no merit. As adjudicated by the Tribunals and determined in accordance with the Policy, there is no finding that you engaged in any protected activities with respect to the matters for which you have made public in direct contravention of the instructions given to you by way of letter dated 10 June 2020. Moreover, there is no basis for your claim that your reports were necessary to avoid violations of international law in accordance with Section 4(a) of the Policy. In response

to your claims made, OHCHR has made it clear that its activities are consistent with international law. Further, you have failed to prove that the use of internal mechanisms was not possible as required under Section 4(b) of the Policy.

21. In addition, your claims of bias and conflict of interest are not warranted.
22. Based on the foregoing, your comments on the allegations of misconduct as set forth in the communication of 30 July 2021, do not change the determination that you engaged in serious misconduct and that the facts regarding such serious misconduct have been established by clear and convincing evidence.

C. Your procedural fairness rights were respected throughout the investigation and disciplinary process

23. It is noted that your procedural fairness rights were respected throughout the investigation and disciplinary process, in accordance with the Organization's regulations, rules and other administrative issuances. In particular:
 - You were invited by the Panel to an interview on multiple occasions however, you did not accept their invitation to attend an interview.
 - You were provided with the allegations of misconduct memorandum and all supporting documentation. You were informed of your right to seek the assistance of counsel. You were given the opportunity to comment on the allegations against you.
 - You were afforded a one-month extension of time within which to submit your comments on the allegations of misconduct.
 - You provided comments on the allegations of misconduct.
 - Your communications during the investigation and your comments during the disciplinary process were duly considered.

D. Appropriate sanction

24. In determining the appropriate sanction, the past practice of the Organization in matters of comparable misconduct were considered. Cases of unauthorized outside activities, involving unauthorized external communications have attracted a range of measures, i.e. from written censure to dismissal.
25. There were no mitigating factors. However, there were a number of aggravating factors including the following: (a) you repeatedly violated the direct instruction to not engage in unauthorized communications, including contacts with the media and Member States; (b) you had systematic and willful intent to damage the reputation and programmatic capacity (e.g. your calls for funding and budget cuts) of the Organization through the content of your unauthorized external communications; (c) your refusal to participate in an interview during the investigation; and (d) your lack of remorse.

26. Considering the foregoing, it has been concluded that the appropriate disciplinary measure in this case is separation from service, with compensation in lieu of notice and with one half termination indemnity, in accordance with Staff Rule 10.2(a)(viii) and Annex III (c) of the Staff Regulations and Rules, effective upon your receipt of this letter.