

UNITED N

Cas o D G A2
Ju nt o D 2

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12. The Applicant was sentenced to fourteen years of imprisonment. He filed an appeal against the judgment of 12 February 2015, which, to the best of the Tribunal's knowledge at the time of this judgment, is still pending.

13. By memorandum of 15 June 2015, the Assistant Secretary-General for Field Support referred the Applicant's case to the Assistant Secretary-General for Human Resources Management, for appropriate action. The referral was based on the following documents:

- a. A code cable, dated 13 May 2015, from UNMIK to the Department of Peacekeeping Operations;
- b. An English translation of the above judgment of the Basic Court of Mitrovica; and
- c. English translations of two transcripts of the Applicant's testimony dated 27 and 28 January 2015 at the trial resulting in his conviction on 12 February 2015.

14. By memorandum entitled "allegations of misconduct", dated 25 June 2015, and delivered to the Applicant on) July 2015 at the detention centre where he was being held, he was requested to respond to allegations that:

- a. In or about November 2010, [he had] engaged in sexual intercourse with S.T., who was under 18 years of age at the time;
- b. In or about June 2011, [he had] engaged in sexual intercourse with S.N., who was under 18 years of age at the time; and
- c. [he had] violated the national criminal laws of the Republic of Kosovo relating to sexual abuse, rape, attempted sexual assault and attempted facilitation of prostitution.

15. By the memorandum in question, the Applicant was also informed of his right to avail himself of the assistance of counsel.

Cas o D G A2
Ju nt o D 2

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many other impermissible acts of authorities (police, prosecutor and judges);

b. The United Nations were not in possession of many documents, including, *inter alia*, the 633-page case file in front of the national court, and his appeal against the judgment of 12 February 2015, dated 7 April 2015;

c. The birth certificates of S.T. and S.N. were falsified; his “knowledge” of their age, as expressed at trial, was based on their falsified birth certificates; her IDs were never presented and S.N. hid it because she gave a wrong birthdate and a falsified birth certificate issued by the Municipal authorities; according to her real birthdate and ID she was over 19 at the time of the first sexual intercourse;

d. The findings of guilt by the Basic Court of Mitrovica against him, in four criminal offences, was unlawful; he argues, *inter alia*, that the judgment was based on inadmissible evidence; that the acts for which he was accused and prosecuted were not criminal offences; the determination of the factual status was erroneous and incomplete; he did not have the opportunity to defend himself; he did file an appeal against that judgment;

e. Local authorities did not respect his immunity and the United Nations did not express any concern on his unlawful arrest; rather, the Secretary-General lifted his immunity; and

f. The two disciplinary measures imposed on him should be annulled.

21. The Respondent’s principal contentions are:

The facts are established by clear and convincing evidence

a. By his own admission at trial, the Applicant had sexual intercourse with S.T. in November 2010, and he stated at trial that she was 16 years and five months at that time; the Applicant also admitted that he had sexual

intercourse with S.N. in June 2011, and stated at trial that according to her birth certificate, she was "17 and one month, almost" at that time;

b. His arguments and attempts to retract the statements he ma

The disciplinary measures imposed on the Applicant were proportionate

- h. In the present case, the Applicant engaged in two areas of misconduct, namely (a) sexual exploitation and abuse and (b) violation of local laws**

Cas o D G A2
Ju nt o D 2

Compensation

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32. Also, Secretary-General's Bulletin ST/SGB/2003/13 (Special measures for protection from sexual exploitation and sexual abuse) provides in sec. 3 (Prohibition of sexual exploitation and sexual abuse), and more specifically in secs. 3.1 and 3.2(b):

Cas o D G A2

Ju nt o D 2

39. With respect to S.T., the Applicant admitted at trial that he had sexual intercourse with her in November 2010, and that "at that time she was 16 years

42. Further, the Tribunal notes that the Basic Court of Mitrovica found that it was established

Applicant by the Basic Court of Mitrovica and his admissions at trial, are without prejudice to the potential outcome of the Applicant's appeal against that judgment in front of the higher national courts.

45. In light of the foregoing, this Tribunal finds that the conviction of the Applicant by the Basic Court of Mitrovica, together with his free admission at trial of having had sexual intercourse with S.T. and S.N. while they were under the age of eighteen is clear and convincing evidence of him having had sexual intercourse with girls under the age of eighteen.

Did the facts amount to misconduct

46. It is established for the purpose of the present proceedings that the Applicant engaged in sexual intercourse with two persons under the age of eighteen. This clearly constitutes a violation of the Organization's policy under staff regulation 10.1(b) and secs. 3.1 and 3.2(b) of ST/SGB/2003/13, as well as staff regulation 1.2(f). The facts clearly amount to misconduct which is explicitly

Cas o



D G A2