



12 March 2021

OPEN LETTER to:
United Nations Secretary-General

Dear Secretary-General,

We are writing to express our deep concern at the lack of any positive or acceptable resolution of the ongoing detriment against UN whistleblower Emma Reilly for reporting concerns about a “practice, which was contrary to fundamental UN principles and values - exactly the sort of activity which must be protected.”¹

After so many procedural irregularities, dead ends and delays, **we urge you to ensure that Ms Reilly is given immediate protection against further retaliation, including dismissal, and that her concerns are the subject of a credible, independent investigation.**

We acknowledge your public commitment to protect UN whistleblowers who respect their obligations under UN rules to report suspected wrongdoing but respectfully submit the current system of UN rules are not effective. **We therefore urge you to commit to a clear and deliberate plan of action to reform the UN’s internal whistleblowing mechanisms including an open and transparent appeal and external oversight mechanism.** The ongoing failure to provide UN staff access to an independent appeal and external oversight mechanism means vital public interest protection for UN staff remains mired in bureaucratic mechanisms that work to blindly protect the institution rather than uphold its values.

The WIN Board of Trustees wrote a letter to you on the 26th October 2020 (see attached) setting out our detailed concerns with respect to Ms. Reilly’s case, including: serious delays; repeated decisions in favour of Ms. Reilly that have not led to any positive resolution or normalisation of her job status nor to an independent investigation into her concerns; the highly prejudicial impact of the removal of a judge without adequate notice to allow for proper disposal of the cases of which he was seized and had heard all the evidence; as well as the premature closure of an internal audit of UN whistleblower protection policies after the auditors had spoken to Ms. Reilly. It is unacceptable that an international body, charged with upholding human rights around the world, should continue to fail to remedy repeated actions that cause severe harm and are defended as normal procedures.

The fairness in the application of rules and systems cannot be examined in a vacuum. In the case of workplace whistleblowing, it is absolutely essential that any steps to change a person’s employment status or failures to protect someone’s career progression once they have blown the whistle be examined in their proper context. This means that the burden of proof must fall to the employer to prove that any such actions are wholly unrelated to the whistleblowing and independently fair.

It is also a well-established principle that individuals who witness suspected wrongdoing be afforded the freedom to choose the most appropriate reporting channel. Indeed, disclosing concerns publicly, particularly when there has been no satisfactory outcome to the original concerns raised internally, is a

¹ As found by the Alternate Chair of the Ethics Panel of the United Nations (July 2020) in the case of Ms. Reilly in which overturned the findings of previous Ethics Officers

protected activity². Ms. Reilly assiduously followed the internal processes available to her since first raising her concerns in 2013 about an unofficial OHCHR policy of handing over the names of human rights defenders planning to speak out against violations of human rights in China to the Chinese delegation. She has also worked hard to defend herself within the UN system. It is our understanding that while lawyers for the UN defend this policy in court, spokespersons from your office have made conflicting public statements, claiming that it never happened, stating the names were already public, or that protective measures were taken. Despite repeated requests from Ms. Reilly, UN lawyers have yet to provide any clarity as to whether or not this policy remains in place. It should be obvious that there is nothing to be gained by investigating or dismissing Ms. Reilly for commenting publicly on publicly available information. However, there is clearly an urgent need for an investigation to ensure there is no further endangerment of human rights defenders and to ensure equal treatment of all member states.

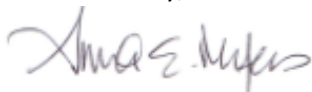
Internal best practice consensus on the legal principles for effective whistleblower protection were confirmed by Europe's human rights body in the Council of Europe's Committee of Ministers' 2014 Recommendation on the protection of whistleblowers and, importantly, in the recently adopted EU Directive on whistleblowing to which 27 Member States must adhere. It is clear from Ms. Reilly's case, as well as other reported whistleblowing cases at the UN,³ that repeated failures to promptly and objectively investigate the substance of concerns raised, and a strong tendency within the UN to defend the institution in ways that too often involve criticising or investigating the whistleblowers, reveals the organisation to fall far below acceptable international standards of whistleblower protection.

After 8 years of failed promises, we urge you as UN Secretary General to follow up on your 2018 instruction that Ms. Reilly be protected by immediately intervening now to regularise her employment status with a functioning position that she can consent to taking and to order the immediate suspension of any further investigations against her. Such action would send an unequivocal message to all those who work for the United Nations and who are committed to its values and principles that speaking up to protect the interests of others is respected at the highest levels of the organisation.

Ms Reilly will return to work on Monday 15th March 2021, coinciding with the end of her sick leave which is why we urgently write to you today. We trust that you will intervene to remedy the situation with immediate effect; to ensure that Ms. Reilly is protected from any further reprisals and that in terms of remedy, she is made whole.

As we have said before, whistleblower protection cannot be viewed in the abstract; but must be demonstrated with examples of actual people who blow the whistle on dangerous misconduct in the UN and who are able to continue and progress in their UN careers. At WIN, we are not aware of a single example of this happening. This must change.

Yours sincerely,



Anna Myers
Executive Director of WIN

On behalf of the Board of Trustees of WIN:
John Devitt (Chair of WIN Board), CEO of Transparency International Ireland

² See Article 15 of the EU Directive on whistleblowing. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937>

³ See paragraph 53 of the 2015 Report of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression into the protection of sources and whistleblowers. <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/ProtectionOfSources.aspx>

Tom Devine, Legal Director, Government Accountability Project, USA

Annegret Falter (Dipl.-Pol.), Chair of Whistleblower-Netzwerk, Germany

Giorgio Frascini, Whistleblowing Programme Manager, Transparency International Italy

David Hutton, Senior Fellow of the Centre for Free Expression Whistleblowing Initiative, Ryerson University, Canada.

Cathy James, Lawyer and Expert in Whistleblowing Law, United Kingdom

Vladimir Radomirović, Editor-in-Chief, Pištaljka (The Whistle), Serbia