

UNITED NATIONS

Ethics Office



NATIONS UNIES

Bureau de la déontologie

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**CONFIDENTIAL**

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Ms. Karen Gray  
General Counsel  
Government Accountability Project  
1612 K Street, NW suite 1100  
Washington, D.C. 20006  
[KarenG@whistleblower.org](mailto:KarenG@whistleblower.org)

Dear Ms. Gray,

I refer to your letter dated 13 December 2007 addressed to me wherein you write as co-counsel for Mr. Mathieu Koumoin.

As you are aware, I previously responded by letter dated 14 September 2007 directly to Mr. Koumoin's request for review pursuant to ST/SGB/2005/21. I noted that prior to contacting the Ethics Office, Mr. Koumoin availed himself, appropriately, of internal recourse mechanisms such as rebuttal process of his performance appraisal as well as a request for review of the administrative decision not to extend his contract followed by an appeal of the same decision. His appeal is currently pending before the Joint Appeals Board (JAB). As noted in that correspondence, the Ethics Office considered it in the best interests of the organization to allow the appeal process to take its course.

At the outset, it must be noted that the Ethics Office does not have direct jurisdiction over staff of UNDP. Nonetheless, we have carefully reviewed the materials you submitted in support of Mr. Koumoin's request for protection against retaliation from the Ethics Office. You point out in your letter that the Terms of Reference of the Ethics office (ST/SGB/2005/22) in Section 7 specifically state that nothing in that bulletin "shall limit the ability of staff members to seek redress through the internal recourse mechanisms." Please note that in section 3.2 of the bulletin, it states that "the Ethics Office will not replace existing mechanisms available to staff for ... resolution of grievances." Indeed, as you have stated, the internal recourse system and the Ethics Office are not mutually exclusive and can even complement each other, as necessary. In the event that the Ethics Office considers it necessary to undertake a review despite an existing appeal mechanism, it can do so.

You have also made reference in your letter to a response that was provided to the media on 3 December 2007 in relation to the application of paragraph 4.1 of Secretary-General's Bulletin ST/SGB/2007/11. Paragraph 4.1 provides:

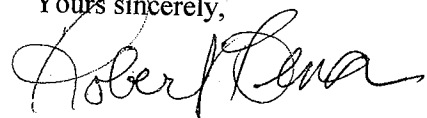
In order to safeguard and ensure that all matters associated with the discharge of duties and responsibilities of the Ethics Office of the separately administered organ or programme are independent and free from any undue pressure and influence, solely at the discretion of the head of a separately administered organ's

or programme's Ethics Office, he or she may refer any matter within the Office's area of responsibility, at any time, to the Chairperson of the United Nations Ethics Committee for advice and guidance, and shall inform the Executive Head of the separately administered organ or programme of the referral made.

In referring to this particular response, you have commented that "...whistleblower cases could be referred to the central Ethics Office if the agency's head or deputy head was the alleged retaliator." That response is partly correct, but it must be understood that it was made in the context of the application of the new Secretary-General's Bulletin, in particular, paragraph 4.1, as referred to above. As a consequence, such referral would be at the direction of the head of a Fund or Programme's Ethics Office.

Finally, after having taken the time to review and consider in detail the additional information that you have provided, the Ethics Office remains of the belief, based upon the circumstances of this case, that it would be best for the appeals process to proceed and address the particular issues raised in Mr. Koumoin's well documented case.

Yours sincerely,



Robert Benson  
Director  
Ethics Office