



**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Judgment No. 2017-UNAT-716



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Before:	Judge John Murphy, Presiding Judge Rosalyn Chapman Judge Dimitrios Raikos
Case No.:	2016-951
Date:	31 March 2017
Registrar:	Weicheng Lin

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Counsel for Ms. Cohen:	April L. Carter
Counsel for ICJ:	Jean-Pelé Fomété Pierre Bodeau-Livinec

*Reissued for technical reasons on 1 June 2017*

**JUDGE JOHN MURPHY, PRESIDING.**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application against the Registrar of the International Court of Justice (ICJ Registrar and ICJ, respectively) by a former staff member, Ms. Phyllis Rachel Cohen. Ms. Cohen filed her application on 14 July 2016, and the ICJ Registrar filed his answer on 16 September 2016.

**Factual Background**

2. Ms. Cohen joined the Library Division of the ICJ Registry on 26 September 2011 on a one-year fixed-term contract (GS-5). She was granted thereafter a two-year contract ending on 25 September 2014.

3. On 19 February 2013, Ms. Cohen was placed on sick leave and never resumed work until she was terminated effective 17 November 2014, after she had exhausted all her sick leave entitlements (on full and half salary) and her accrued annual leave.

4. On 20 May 2013, Ms. Cohen submitted a formal complaint of prohibited conduct pursuant to ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority). She claimed to be a victim of harassment and abuse of authority by her supervisor, Ms. Rangel, the Head of the Library Division. By a letter dated 24 June 2013, the ICJ Registrar appointed a panel to carry out a formal fact-finding investigation, which held interviews with several persons between 26 August and 25 September 2013. The panel issued a first report on 24 October 2013 and a final report dated 9 January 2014. Ms. Cohen was provided with a copy of the report on 5 February 2014. The fact-finding panel found that the established facts demonstrated “a pattern of increasing and systematic isolation and denigration of Ms. Cohen by Ms. Rangel, as well as aggression ... [and] unjustifiable physical tasks causing serious pathology”.

5. By letter dated 8 April 2014, Ms. Cohen was informed of the ICJ Registrar’s decision “to impose on Ms. Rangel, effective 11 April 2014, the disciplinary measure of separation from service with compensation in lieu of notice”. The decision, the letter stated, was based on the ICJ Registrar’s thorough review of the panel’s report and its supporting documentation upon which it had concluded that there was sufficient credible evidence that Ms. Rangel had committed misconduct by her involvement in acts of discrimination, harassment and abuse of authority against Ms. Cohen.

6. Ms. Cohen had previously filed, on 9 November 2013, a claim to the Secretariat of the Advisory Board on Compensation Claims (ABCC) under Appendix D to the United Nations Staff Regulations and Rules (Appendix D and Staff Regulations and Rules, respectively) applicable to the ICJ. The ABCC informed the ICJ on 31 January 2014 that Ms. Cohen's claim was considered not receivable as it had not "contain[ed] any official finding of harassment and punitive work assignments to support her injuries and illness as being service-incurred". On 9 April 2014, the ICJ communicated the official findings of the investigation panel's report to the ABCC. By letter dated 18 April 2014, the United Nations Joint Staff Pension Fund (UNJSPF) informed Ms. Cohen that it had determined that she was incapacitated for further service and was thus entitled to a disability benefit under Article 33 of the UNJSPF Regulations and that her eligibility for this benefit would be reviewed in April 2019. Since 18 November 2014, Ms. Cohen has received a disability benefit of approximately Euros 2,500 per month through the UNJSPF.

7. By letter dated 20 October 2014, Ms. Cohen submitted a formal request to the ICJ Deputy-Registrar for compensation "for the harassment suffered" while employed by the ICJ, claiming that her injuries, disability, loss of employment and consequent damage to her career and reputation flowed directly from the harassment and abuse of authority inflicted by her manager, for which the ICJ was responsible. The ICJ also bore "aggravated responsibility for recklessly exposing Ms. Cohen to the known risks posed by her manager" in direct contravention of the duty imposed by ST/SGB/2008/5 to provide a safe workplace and to protect its staff from harassment based on the right of all staff members to a harmonious work environment that protects their physical and psychological integrity. Ms. Cohen requested, in addition and without prejudice to her Appendix D claim, USD 100,000 net of taxes as settlement compensation for the "preventable harassment", loss of employment and damage to career, relocation expenses, pain and suffering and due process violations. She asked the ICJ Deputy-Registrar to respond by 30 October 2014.

8. By e-mail of 21 October 2014, the ICJ Deputy-Registrar confirmed receipt of the request and stated that in order to facilitate its review Ms. Cohen should clearly indicate the legal basis of the procedure she was initiating, the demands being made, and the deadline being set. By reply e-mail of 23 October 2014, Ms. Cohen stated that (i) the process initiated was an attempt to reach an informal resolution which, if denied, would be pursued through formal channels; (ii) the legal basis flowed from her rights under ST/SGB/2008/5, her contract of employment and the jurisprudence of the Appeals Tribunal; and, (iii) the deadline set was done with a view towards

reaching a solution prior to Ms. Cohen's separation from service, expected 17 November 2014. The ICJ Deputy-Registrar replied the next day, 24 October 2014, noting that Ms. Cohen had not responded to his questions and requested her to revert back with a response. He reiterated the three points, elaborating briefly on each.

9. By letter dated 31 October 2014, Ms. Cohen requested—pursuant to Article 11 and Annex VI of the ICJ Staff Regulations—that the ICJ Registrar review “the 30 October 2014 administrative decision denying her request for compensation”. Ms. Cohen considered that since the Deputy-Registrar had not provided a substantive response by the expiry of the 30 October 2014 deadline set by her, his “non-answer” must be treated as a negative decision.

10. The ICJ Registrar replied in a letter dated 26 November 2014. He stated that no administrative decision, *per se*, had been taken on Ms. Cohen's request for compensation of 20 October 2014. He further stated that she had not responded to his queries requesting further information and that, while her concern to reach a solution prior to her separation was understandable, the legal grounds for her representations were nonetheless required. In his view, the ICJ's queries remained unanswered and no reviewable administrative decision existed, either in the form of a positive decision or in that of the Administration's failure to respond.

11. Ms. Cohen replied in a letter dated 1 December 2014 and reiterated her position that the ICJ's failure to take a decision on her request had to be considered an administrative decision and that she would proceed with lodging a complaint with the Conciliation Committee in terms of Article 11.5 of the ICJ Staff Regulations.<sup>1</sup>

12. On 24 December 2014, Ms. Cohen filed a complaint with the Conciliation Committee. She requested a remedy of USD 100,000 in compensation for the damages she suffered “as a result of being a victim of preventable harassment while employed at the ICJ”.

13. By letter of 12 November 2015, the ICJ was notified of the Secretary-General's decision to approve the ABCC's 13 October 2015 recommendation that some of Ms. Cohen's injuries be considered service-incurred; and, accordingly, that all medical expenses certified as directly

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<sup>1</sup> The Conciliation Committee is the body contemplated in Article 2(10) of the Appeals Tribunal Statute (Statute) to carry out the neutral first instance process in terms of the special agreement between the ICJ and the United Nations concluded on 10 June 2011, whereby the Appeals Tribunal is competent to hear and pass judgment on an application filed against the ICJ.

related to the injury and reasonable for the treatments/services provided be reimbursed under Appendix D.

14. Eighteen months later, on 14 June 2016, the Conciliation Committee issued its report, which it transmitted to Ms. Cohen on the same day. It concluded, *inter alia*, that Ms. Cohen had been the victim of discrimination, harassment and abuse of authority; that her claim for an effective remedy was admissible; that she was entitled to an effective remedy in the form of monetary compensation for the violation of her legal rights to a workplace free from any form of harassment. The Conciliation Committee recommended that Ms. Cohen be granted reparation in the amount of USD 35,000.

15. The Conciliation Committee held that the decision of the Administration to discipline Ms. Rangel, Ms. Cohen's supervisor, was not the only remedy available to Ms. Cohen. It accepted the argument that the failure of the Administration to decide on her request for compensation in her letter of 20 October 2014 constituted an implied administrative decision denying her request for an effective remedy and that the filing of her complaint with the Conciliation Committee on 24 December 2014, within 60 days of 31 October 2014, meant it was not time-barred.

16. Paragraph 2.2 of ST/SGB/2008/5 provides:

The Organization has the duty to take all appropriate measures towards ensuring a harmonious work environment, and to protect its staff from exposure to any form of prohibited conduct, through preventive measures and the provision of effective remedies when prevention has failed.

17. The Conciliation Committee in its report found that Ms. Cohen had suffered moral injury for which the only effective remedy was compensation. In reaching its decision to limit the payment of compensation to an amount of USD 35,000, the Conciliation Committee had regard to the absence of any undue delay and the fact that she had been awarded a disability pension of 75 per cent of her salary. It also rejected any entitlement on her part to receive relocation expenses in the amount of USD 10,000 on the basis that she had been locally recruited.

18. On 14 July 2016, Ms. Cohen filed her application to the Appeals Tribunal in terms of Article 2(10) of the Statute contesting the Conciliation Committee's decision to recommend compensation of USD 35,000 and requesting the Appeals Tribunal to award her more than two years net base salary on the basis that she is now permanently disabled due to the

malfeasance of senior officials of the ICJ. On 19 August 2016, the ICJ Registrar filed an ex-parte motion requesting an extension of time, until 28 September 2016, to file his answer. On 24 August 2016, by Order No. 268 (2016), the Appeals Tribunal granted the ICJ Registrar an extension until 16 September 2016. On 26 August 2016, Ms. Cohen filed a motion for reconsideration requesting that the Appeals Tribunal reconsider its Order No. 268, with respect to which the ICJ Registrar submitted comments on 8 September 2016. On 16 September 2016, the ICJ Registrar filed his answer. On 11 October 2016, Ms. Cohen filed a request to file a reply, with respect to which the ICJ Registrar submitted comments on 26 October 2016.

### **Submissions**

#### **Ms. Cohen's Submissions**

19. In the application before us, Ms. Cohen maintains that the implied administrative decision of 31 October 2014 was not in compliance with her terms of contract in that it denied her entitlement to an effective remedy in terms of paragraph 2.2 of ST/SGB/2008/5 for the harm she suffered as a result of the preventable workplace harassment and abuse of authority while employed at the ICJ. The record shows that the ICJ could have prevented the harassment suffered by Ms. Cohen but it failed to act on recommendations received as early as 2010, prior to Ms. Cohen joining the ICJ.

20. Ms. Cohen requests at least two years' net base salary as compensation for harassment, relocation expenses, pain and suffering, loss of employment and damage to career, and due process violations. The decision by the Conciliation Committee to recommend USD 35,000 failed to give adequate consideration to: (i) the fact that the disability benefit does not compensate her for pain and suffering; (ii) her relocation and related costs were the direct result of her medical termination; (iii) the disability pension does not adequately compensate her for loss of employment and damage to her career; (iv) various due process violations; and, (v) the eighteen-month delay in finalising the matter compounded her existing injuries.

21. Ms. Cohen submits that the extreme nature of the physical, mental and emotional harms suffered and her injuries were all preventable and thus she should be awarded compensation "at the highest end of the damages spectrum" exceeding the statutory limitation. In addition, ICJ senior management should be held accountable for not only turning

a blind eye to the harassment and abuse of authority, but essentially rewarding the prohibited conduct when it granted her supervisor, Ms. Rangel, a continuing appointment in October 2012.

22. Ms. Cohen accordingly requests compensation exceeding two years' net base salary. She also seeks a referral of her case in terms of Article 9(5) of the Statute to the President of the ICJ for possible action to enforce accountability of the ICJ Registrar and the relevant Administration members.

### **The ICJ Registrar's Answer**

23. The ICJ Registrar argues that Ms. Cohen has failed to identify an administrative decision susceptible to judicial review. The ICJ Registrar was not silent in response to Ms. Cohen's 20 October 2014 claim; rather, the record shows he requested she provide the legal basis for it. Without that, the ICJ Registrar had no other option than to consider that no reviewable administrative decision existed. The Conciliation Committee's conclusion regarding the admissibility of Ms. Cohen's claim was erroneous. The Conciliation Committee does not take "decisions" susceptible to appeal; only the administrative decision or disciplinary action may be appealed and, since there is no administrative decision in this case, Ms. Cohen's "appeal" is non-receivable.

24. Moreover, the ICJ Registrar submits there is no legal basis for the monetary compensation Ms. Cohen seeks. Ms. Cohen's application, in his view, reflects confusion between a claim for an effective remedy and one for moral damages, and the jurisprudence relied upon is inapplicable and irrelevant. Sections 2.2 and 5.20 of ST/SGB/2008/5 indicate that the remedy contemplated in ST/SGB/2008/5 is the availability to staff members of a recourse mechanism. Nowhere does ST/SGB/2008/5, which provides for "comprehensive procedures", make any reference to the possibility, let alone duty, of the Administration to award monetary compensation. Judicial review is limited to the administrative activity (act or omission) after a request for investigation to determine if it was taken in accordance with applicable law and the legality of the investigation itself. Ms. Cohen's claim for monetary compensation to be awarded by the ICJ Registrar as an effective remedy pursuant to ST/SGB/2008/5 does not legally stand and should be dismissed in its entirety.

25. Similarly, Ms. Cohen fails to substantiate—legally and factually—her claims for moral damages. First, some of the “area of damages” claimed could not be made good by way of moral damages. Second, those that have been recognized as “service-incurred” are reimbursable under Appendix D. Third, the claims for moral injuries suffered fail to meet the stringent criteria established by the Appeals Tribunal, including the evidentiary requirement. Specifically, Ms. Cohen has failed to demonstrate that (a) the ICJ Registrar’s October 2014 decision, which she purports to challenge, constitutes a breach of a fundamental nature, and (b) the existence of a causal link between that alleged breach and the injuries suffered. While apparently more developed, her claims for “due process violations” also fail to explain how the administrative decision allegedly taken by the ICJ Registrar in October 2014 would have caused the harm for which compensation is requested.

26. Ms. Cohen’s bald assertion that the ICJ Registrar “must be held accountable” is unsubstantiated. She also fails to explain how the Appeals Tribunal could implement the judicial referral for accountability that she requests in the absence of specific provisions applicable to the ICJ in Article 9(5) of the Statute or in the 2011 exchange of letters between the ICJ and the Secretary-General of the United Nations regarding the jurisdiction of the Appeals Tribunal. Moreover, she fails to demonstrate how this case is “appropriate” for such a referral. Contrary to Ms. Cohen’s assertions, timely action was taken by the ICJ—both in 2010 when the situation regarding Ms. Rangel was first presented and again in 2013 when incidents were reported and Ms. Cohen filed her complaint. Throughout the difficult situation, the ICJ treated Ms. Cohen with empathy and provided her with extra support—e.g., providing her with full salary when she was entitled to only half and covering her medical insurance premiums.

27. The ICJ Registrar requests Ms. Cohen’s application be declared non-receivable or, alternatively, dismissed in its entirety including her request of referral for accountability.



### Considerations

#### *Preliminary matters*

28. Ms. Cohen requested an oral hearing. We do not find that an oral hearing would assist in the expeditious and fair disposal of the case and for that reason the request for an oral hearing is denied.<sup>2</sup>

29. There are two preliminary motions requiring consideration. Ms. Cohen seeks reconsideration of the Appeals Tribunal's Order No. 268 (2016) granting the ICJ Registrar additional time to file his answer. She submits that reconsideration is warranted because the ICJ Registrar's *ex-parte* request was neither timely nor justified and led to prejudicial delay. The motion is without merit. There is no proper basis for the motion and the matter has in any event become moot in that no practical consequence will follow from it. The ICJ Registrar has filed his answer. The delay in question was minimal and of no practical consequence. Case management is the prerogative of the Appeals Tribunal. It was in the interests of justice to grant a limited extension which was not prejudicial to Ms. Cohen's rights.<sup>3</sup> The motion is accordingly dismissed.

30. Ms. Cohen also applied for permission pursuant to paragraph 26 of Section II.A.3 of the Practice Direction No. 1 of the Appeals Tribunal to reply to the ICJ Registrar's answer. She submitted that it was necessary because unlike an appeal of a judgment by the United Nations Dispute Tribunal, which fully evaluates the record and makes findings of fact, neither the ICJ Registrar nor the Conciliation Committee addressed the testimony on record in their respective decisions; they only addressed procedural and legal aspects of Ms. Cohen's case. Given the *sui generis* nature of an application in terms of Article 2(10) of the Statute, there is merit in the submission that exceptional circumstances exist allowing for the filing of a reply.<sup>4</sup> The motion to file a reply to the answer is accordingly granted, and the reply is part of the record before the Appeals Tribunal.

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<sup>2</sup> Article 8(3) of the Statute and Article 18(1) of the Appeals Tribunal's Rules of Procedure; see also *Siciliano v. Secretary General of the International Civil Aviation Organization*, Judgment No. 2016-UNAT-702, para. 46.

<sup>3</sup> *Dannan v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Order No. 118 (2012), para. 4.

<sup>4</sup> *Roberts v. Secretary-General of the United Nations*, Order No. 233 (2015), paras. 3-4.

*Merits*

31. The application before the Appeals Tribunal is one in terms of Article 2(10) of the Statute. The relevant part of the provision reads:

The Appeals Tribunal shall be competent to hear and pass judgement on an application filed against a[n] ... entity ..., where a special agreement has been concluded between the ... entity concerned and the Secretary-General of the United Nations to accept the terms of the jurisdiction of the Appeals Tribunal, consonant with the present statute. Such special agreement shall provide that the agency, organization or entity concerned shall be bound by the judgements of the Appeals Tribunal and be responsible for the payment of any compensation awarded by the Appeals Tribunal in respect of its own staff members and shall include, inter alia, provisions concerning its participation in the administrative arrangements for the functioning of the Appeals Tribunal and concerning its sharing of the expenses of the Appeals Tribunal. Such special agreement shall also contain other provisions required for the Appeals Tribunal to carry out its functions vis-à-vis the agency, organization or entity. Such special agreement may only be concluded if the agency, organization or entity utilizes a neutral first instance process that includes a written record and a written decision providing reasons, fact and law. In such cases remands, if any, shall be to the first instance process of the agency, organization or entity.

32. As mentioned, through an exchange of letters between the President of the ICJ and the Secretary-General of the United Nations in April and June 2011, a special agreement was concluded and the ICJ accepted the jurisdiction of the Appeals Tribunal to hear and pass judgment on applications filed in terms of Article 2(10) of the Statute read with the special agreement.

33. The ICJ Staff Regulations give effect to the special agreement. Article 11.5 of the ICJ Staff Regulations provides that a staff member of the Registry may lodge a complaint with the Conciliation Committee:

- (a) against an administrative decision which constitutes in his or her view a breach of his or her contract or of his or her terms of employment, the words “contract” and “terms of employment” comprising all provisions of the Staff Regulations for the Registry, and of the texts referred to therein, as may have been in force at the time of the alleged non-observance; or
- (b) against any disciplinary actions taken against him or her.

34. Article 5 of the ICJ Staff Regulations regulates proceedings before the Conciliation Committee. Article 5.5 provides:

As soon as practicable after receiving the Registrar's answer, the Conciliation Committee shall endeavour to conciliate between the parties and shall hear them for that purpose. In the event of a successful conciliation, it shall record the agreement of the parties in a Minute. In the event of failure, it shall draw up a report summarizing the procedure followed, the arguments of the parties and the recommendations made by the Committee during the proceedings, and containing a statement of the relevant facts and law. That report shall be transmitted to the Registrar and to the staff member. By virtue of Article 11, paragraph 7, of the Staff Regulations for the Registry, and within the time-limit indicated by the exchange of letters for which provision is made in that paragraph, the staff member shall be entitled to submit an Application to the United Nations Appeals Tribunal.

35. Article 11.7 of the ICJ Staff Regulations reads:

In the event of a failure to achieve a conciliation, the administrative decision or disciplinary action may be the subject of an Application to the United Nations Appeals Tribunal, in accordance with the Statute of that Tribunal and under the conditions to be determined in an exchange of letters between the President of the Court and the Secretary-General of the United Nations.

36. The Conciliation Committee failed to achieve a conciliation of Ms. Cohen's request for compensation made in her letter of 20 October 2014. Her complaint essentially is that the failure of the ICJ Registrar to take a decision on her request for compensation constituted an administrative decision in breach of her contractual right to an effective remedy in terms of paragraph 2.2 of ST/SGB/2008/5. Absent a successful conciliation and settlement agreement as contemplated in Articles 5.5 and 11.7 of the ICJ Staff Regulations she is permitted to make an application to the Appeals Tribunal to determine if the administrative decision is in breach of contract entitling her to compensation as an effective remedy for the proven harassment.

37. The ICJ Registrar is incorrect in his submission that there is no administrative decision. The Appeals Tribunal has consistently held that the absence of a response to a claim or a complaint can in certain circumstances constitute an appealable administrative

decision where it has direct legal consequences.<sup>5</sup> The implied administrative decision to deny Ms. Cohen compensation for the harm she suffered denied her the effective remedy to which she was contractually entitled under ST/SGB/2008/5. There is accordingly a legal basis for Ms. Cohen's claim for compensation before the Appeals Tribunal.

38. The fact that Ms. Cohen was the victim of harassment and has suffered harm is common cause, as is the fact that the harm was work related. The conduct has resulted in her disablement from employment. Both the investigative panel and the Conciliation Committee found that senior officials had prior knowledge that Ms. Cohen's manager posed a danger to her subordinates, and failed to take appropriate steps to minimize the risk that her conduct might cause harm. There is no evidence before us to rebut those findings. It follows that the ICJ is in breach of its duty to protect its employees from discrimination and harassment.

39. Article 9(1)(a) of the Statute provides that the Appeals Tribunal may order compensation for harm, supported by evidence, which shall normally not exceed the equivalent of two years' net base salary, except in exceptional circumstances justifying more than that.

40. Ms. Cohen submits that she is entitled to compensation for the pain and suffering caused by the harassment, relocation expenses, procedural unfairness and "loss of employment and damage to career".

41. The available evidence suggests that Ms. Cohen has lost some capacity in her one functional arm. She has, however, to some extent been compensated for that and her loss of earning capacity in the award of the disability pension. She has presented no evidence to support her claim for patrimonial damages for a loss of earning capacity or her loss of future job prospects. Her submissions in that regard are speculative and not supported by appropriate evidence.

42. As for the relocation expenses incurred by Ms. Cohen on termination, she would have incurred these had she been terminated under other circumstances since she was locally recruited and consequently such cannot be considered to be a loss caused by the injury she

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<sup>5</sup> *Survo v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-644, paras. 25-27; *Tabari v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2011-UNAT-177, para. 21.

sustained. Moreover, Ms. Cohen's decision to relocate was made voluntarily and there is insufficient causal link between that decision and any harassment she suffered.

43. The allegations of procedural fairness relate for the most part to delays in processing her complaint and any defects in that regard were not materially prejudicial. For most of the relevant time, Ms. Cohen was either on paid leave or receiving a disability benefit and did not suffer any financial prejudice resulting from the delays.

44. In the premises, Ms. Cohen's claim for compensation excludes these heads of damages. Her loss relates more to harm in the form of pain and suffering and the loss of amenities of life. The harm she has experienced in this regard, which is evident and supported by the record before the Appeals Tribunal, flows from and is related to the fact that she suffered harassment resulting in *inter alia* medically certified "anxiety with depressive symptoms" and "panic attacks" in addition to physical injuries found by the ABCC to have been "serviced-incurred" as well as her lost capacity to work as determined by the UNJSPF. The evidence in relation to this harm has not been meaningfully contested.

45. The quantum of the compensation for harm caused by harassment is a matter within the discretion of the Appeals Tribunal properly assessing the evidence of the nature, extent and effects of the harm, with due regard and consideration being given to awards in similar cases.<sup>6</sup> After considering all relevant factors and circumstances (including, notably, the ABCC and UNJSPF determinations in Ms. Cohen's favour), the Appeals Tribunal holds that an award of one year's net base salary will sufficiently compensate the harm suffered by Ms. Cohen.

46. The exercise of the power of referral for accountability in terms of Article 9(5) of the Statute must be exercised sparingly and only where the breach or conduct in question exhibits serious flaws.<sup>7</sup> The wrongdoing in this case was primarily that of Ms. Cohen's supervisor. There is accordingly no justifiable basis to refer for accountability.

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<sup>6</sup> See, e.g., *Nogueira v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-409, para. 19; *Abubakr v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-272, paras. 53-54; *Appellant v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-143, paras. 57-59.

<sup>7</sup> *Igbinedion v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-410, para. 37; *Finniss v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-397, paras. 37-38.

**Judgment**

47. The applicant is awarded compensation in the amount of one year's net base salary.

Original and Authoritative Version: English

Dated this 31<sup>st</sup> day of March 2017 in Nairobi, Kenya.

*(Signed)*

Judge Murphy, Presiding

*(Signed)*

Judge Chapman

*(Signed)*

Judge Raikos

Entered in the Register on this 26<sup>th</sup> day of May 2017 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar