



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

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Judgment No. 2024-UNAT-1465

**Sabrije Hoxha  
(Respondent/Applicant)**

**v.**

**Secretary-General of the United Nations  
(Appellant/Respondent)**

**JUDGMENT**

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Before:	Judge Katharine Mary Savage, Presiding Judge Graeme Colgan Judge Leslie F. Forbang
Case No.:	2023-1845
Date of Decision:	28 June 2024
Date of Publication:	2 August 2024
Registrar:	Juliet E. Johnson

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Counsel for Ms. Hoxha: Shubha Suresh Naik, OSLA

Counsel for Secretary-General: Patricia C. Aragonés

**JUDGE KATHARINE MARY SAVAGE, PRESIDING.**

1. Ms. Sabrije Hoxha, a Budget Assistant (FS-4) at the United Nations Interim Force in Lebanon (UNIFIL), contested an implied decision not to reclassify her post to the FS-5 level (contested decision).
2. By Judgment No. UNDT/2023/058, the United Nations Dispute Tribunal (UNDT) granted the application and awarded compensation calculated as the difference in emoluments in the period of delay in the reclassification of the post plus interest (impugned Judgment).<sup>1</sup>
3. The Secretary-General lodged an appeal of the impugned Judgment with the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).
4. For the reasons set out below, the Appeals Tribunal grants the appeal and reverses the impugned Judgment.

**Facts and Procedure<sup>2</sup>**

5. On 11 November 2015, Ms. Hoxha was selected for the FS-4 level Budget Assistant post in the Security Section, UNIFIL.<sup>3</sup> She was placed on a roster of pre-approved candidates for the post of Finance and Budget Assistant at the FS-5 level.
6. On 14 November 2018, the Director, Field Budget and Finance Division (FBFD), United Nations Headquarters (UNHQ), advised all the United Nations peacekeeping missions by facsimile “on the evolution of the finance and budget functions at the assistant level in the field service category”. The Director of FBFD advised that:<sup>4</sup>

3. [T]he roles performed by international posts have evolved in recognition of their increasing complexity (...).

4. As a result of these trends, in the recent establishment of new missions, the ‘lowest level entry’ point for international finance and budget posts has been set at the FS5 level. Effective immediately this will be established as the minimum level of recruitment for international finance and budget posts across all field missions.

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<sup>1</sup> *Hoxha v. Secretary-General of the United Nations*, Judgment dated 21 June 2023.

<sup>2</sup> Summarized from the impugned Judgment as relevant to the appeal.

<sup>3</sup> Impugned Judgment, paras. 8-9.

<sup>4</sup> *Ibid.*, para. 10; 14 November 2018 facsimile (Annex 1 to Ms. Hoxha’s application before the UNDT).

6. I would appreciate your support in reviewing the functions currently being performed by [the small number of remaining] FS4 posts with a view to determining what the appropriate post classification should be. I attach the approved terms of reference for the FS5 function for your reference in this exercise.

7. On 24 July 2019, the Human Resources Section (HRS), UNIFIL, sent UNHQ a request for reclassification of Ms. Hoxha's post to the FS-5 level.<sup>5</sup>

8. On 2 August 2019, the Office of Human Resources (OHR), UNHQ, sought further justification for the reclassification of the post in which Ms. Hoxha was employed and requested UNIFIL to describe how the functions associated with this post changed.<sup>6</sup> OHR explained that the facsimile from the Director of FBFD dated 14 November 2018 had not been a "guaranteed upgrade" for the post and requested UNIFIL to provide details and concrete examples of the change in functions against the Terms of Reference of the FS-5 level.

9. In September 2019, UNIFIL sent the requested information to UNHQ.<sup>7</sup>

10. On 16 August 2021, UNIFIL resubmitted its request for reclassification.<sup>8</sup>

11. On 13 October 2021, Ms. Hoxha was informed by e-mail that the status of her post would be considered again by UNIFIL and UNHQ.<sup>9</sup>

12. On 13 January 2022, Ms. Hoxha concluded that the Administration did not intend to reclassify her post and filed a request for management evaluation (MER) contesting the decision not to reclassify her post.<sup>10</sup>

13. On 1 March 2022, OHR wrote to HRS, UNIFIL, indicating the possibility of classifying the post to the FS-5 level per the duties specified in the Standard Classified Job Description (JD) submitted with the reclassification request.<sup>11</sup> However, OHR informed UNIFIL that it was unclear which of these duties fell under the post since UNIFIL had a fully functional Finance and Budget Section. OHR requested clarification on whether a Budget Assistant in the Security Section was

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<sup>5</sup> *Ibid.*, para. 12.

<sup>6</sup> *Ibid.*, paras. 13-14.

<sup>7</sup> *Ibid.*, para. 15.

<sup>8</sup> *Ibid.*, para. 14.

<sup>9</sup> *Ibid.*, para. 16.

<sup>10</sup> *Ibid.*, para. 17.

<sup>11</sup> *Ibid.*, paras. 18-19.

carrying out similar functions as those of Finance and Budget Assistants for the whole UNIFIL at the FS-5 level in the Finance and Budget Management Section (FBMS).

14. On 4 March 2022, the Management Evaluation Unit (MEU) held that the MER was premature as there was no final decision taken on the reclassification of Ms. Hoxha's post to the FS-5 level.<sup>12</sup>

15. On 30 March 2022, HRS, UNIFIL, requested the Chief Security Officer to revise the original JD submitted with the reclassification request to add additional functions such as implementing International Public Sector Accounting Standards (IPSAS), which had been left out in the original submission.<sup>13</sup>

16. On 20 April 2022, UNIFIL submitted the revised JD to OHR.<sup>14</sup>

17. On 14 June 2022, OHR notified HRS, UNIFIL, of the decision to reclassify the post Ms. Hoxha encumbered from the FS-4 level to the FS- 5 level.<sup>15</sup>

18. On 16 June 2022, UNIFIL notified Ms. Hoxha of the OHR's reclassification decision.<sup>16</sup>

19. Following the reclassification, from 2 to 16 August 2022, UNIFIL advertised the post through a recruit-from-roster method.<sup>17</sup> On 12 September 2022, the hiring manager recommended Ms. Hoxha for selection.

20. On 28 September 2022, Ms. Hoxha was offered the FS-5 level position, which she accepted on the same day.<sup>18</sup>

21. Prior to this, on 26 May 2022, Ms. Hoxha had filed her application with the UNDT.<sup>19</sup>

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<sup>12</sup> *Ibid.*, para. 20.

<sup>13</sup> *Ibid.*, para. 21.

<sup>14</sup> *Ibid.*, para. 22.

<sup>15</sup> *Ibid.*, para. 23.

<sup>16</sup> *Ibid.*, para. 24.

<sup>17</sup> *Ibid.*, paras. 25-26.

<sup>18</sup> *Ibid.*, para. 27.

<sup>19</sup> *Ibid.*, para. 2.

*The impugned Judgment*

22. By Judgment No. UNDT/2023/058 dated 22 March 2023, the UNDT granted the application and ordered compensation as follows:<sup>20</sup>

(...) The Respondent is to pay to the Applicant a compensation calculated as the difference in salary, allowances, and other entitlements between the FS-5 level and the FS-4 level, for the period November 2018 to September 2022, plus interest at the rate correspondent to the rate of inflation, including the equivalent of the loss in contributions to pension.

23. Referring to the absence of a response on the part of the Administration as constituting a denial of the request and amounting to an appealable implied administrative decision, the UNDT held that the application was receivable.<sup>21</sup> It found that the Administration's failure to address Ms. Hoxha's request for reclassification of her post from the FS-4 level to the FS-5 level had endured for more than four years and could therefore be considered, at the moment the application was filed, as a refusal to do so. Furthermore, the UNDT found that the application was not moot because Ms. Hoxha had not lost her legal interest in the dispute, as some effects of the contested decision remained.

24. Turning to the merits of the application, the UNDT considered that Ms. Hoxha's right to the correct level of classification of the post and a fair level of pay derived from the effective functions performed from 2018 at the latest, functions which remained unchanged in the period and, according to the Administration's admission, corresponded to the FS-5 level.<sup>22</sup> In subsequently reclassifying the post to the FS-5 level, the Secretary-General did not demonstrate that the nature of the post then changed. The Secretary-General did not specifically contradict Ms. Hoxha's allegation that, as per the 14 November 2018 facsimile, she appeared to be the only Finance and Budget Assistant who remained at the FS-4 level. The Administration had therefore violated her right to equal pay for equal work.

25. The UNDT found that Ms. Hoxha had the right to be compensated for her functions at the proper level, and accordingly to retroactive payment of salary lost as a result of the delayed reclassification.<sup>23</sup> Therefore, she is entitled to the economic difference between the two levels from

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<sup>20</sup> *Ibid.*, para. 66.

<sup>21</sup> *Ibid.*, paras. 42-49.

<sup>22</sup> *Ibid.*, paras. 54-59. The UNDT noted that it was undisputed that Ms. Hoxha had been carrying out the same functions for a long time after the global classification exercise (*ibid.*, para. 55).

<sup>23</sup> Impugned Judgment, paras. 59-62.

November 2018 until September 2022, including the equivalent of the loss in contributions to the United Nations Joint Staff Pension Fund (Pension Fund). The UNDT ordered that the delay be compensated by interest on the said difference at a rate equal to the rate of inflation. She should not have undergone a competitive selection process.

26. The UNDT declined to award damages with regard to loss of chance to participate in competitive selection processes for posts at the FS-6 level.<sup>24</sup>

#### *Procedure before the Appeals Tribunal*

27. On 21 August 2023, the Secretary-General filed an appeal of the impugned Judgment with the Appeals Tribunal, to which Ms. Hoxha filed an answer on 20 October 2023.

### **Submissions**

#### **The Secretary-General's Appeal**

28. The Secretary-General requests the Appeals Tribunal to reverse the impugned Judgment and dismiss the application or, if the Appeals Tribunal finds it warranted to award compensation, modify the award of compensation and clarify the “pensionable component”.

29. The Secretary-General argues that the UNDT erred in law and in fact when it held that the application was receivable. The UNDT erred in concluding that not reclassifying Ms. Hoxha's post was an appealable administrative decision. The UNDT apparently considered the reclassification request as an issue between her and the Administration, rather than an internal administrative matter between the UNIFIL and OHR. A challenge to a reclassification decision has been deemed receivable by the Appeals Tribunal only where there has been (i) a final decision in accordance with Administrative Instruction ST/AI/1998/9 (System of classification of posts) or (ii) a finding of unlawful reasons denying a reclassification request. Any delay also had no impact on her terms of appointment. She was eventually selected to the post. The application became moot.

30. Turning to the merits of the application, the Secretary-General contends that the UNDT erred in law by finding “remaining effects” of the contested decision and granting, in essence, a retroactive promotion. Under the legal framework, promotion is neither automatic nor retroactive; Ms. Hoxha needed to go through a competitive selection process once her post was

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<sup>24</sup> *Ibid.*, paras. 63-64.

reclassified. In contrast to *Chen*,<sup>25</sup> the reclassification request in the present case was not submitted by the staff member, denied, or decided with unlawful motives. In addition, there were convincing reasons for the length of time for the reclassification review process in the present case,<sup>26</sup> with no timeline established.

31. The Secretary-General submits that the UNDT erred in law and in fact, resulting in a manifestly unreasonable decision, by failing to require Ms. Hoxha to discharge her burden to prove that she had performed all of the functions of the FS-5 level as of a particular date. The UNDT failed to support its finding that she had performed all the FS-5 functions from 2018 at the latest.

32. The Secretary-General argues that the UNDT erred in law and in fact, resulting in a manifestly unreasonable decision, and exceeded its competence when it awarded compensation. The UNDT overlooked the fact that there had been no prior request made by Ms. Hoxha for retroactive pay that had been considered and rejected by the Administration. The UNDT also failed to consider the applicability of Staff Rule 3.17 (Retroactivity of payments).

33. The Secretary-General maintains that the UNDT's view that Ms. Hoxha had performed the functions of the FS-5 level for a period of time does not mean that she was entitled to retroactively to a higher pensionable salary. Staff Rule 3.10(a) (Special post allowance) makes clear that staff members are expected to exercise higher-level functions for a period of time without extra compensation and, if granted, may only receive non-pensionable special post allowance and any applicable allowances. Accordingly, there was no delay with respect to her receipt of higher pay that needed to be compensated.

34. The Secretary-General submits that the UNDT erred when it determined November 2018 as the relevant start date for its calculation. It is misguided and contradicts its own correct finding that the 14 November 2018 facsimile did not create relevant rights. The UNDT failed to consider other factors and failed to explain why November 2018 was the appropriate start date. The UNDT

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<sup>25</sup> *Chen v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-107.

<sup>26</sup> The Secretary-General refers to the need for additional information to justify the HRS's request and regrettable delays due to a high workload and coincidental COVID-19-related disruptions.

failed to consider that a reclassification review process had to be undertaken, first within UNIFIL and then by OHR.<sup>27</sup> Moreover, there is no compensation for delay.<sup>28</sup>

35. The Secretary-General contends that the intended meaning of the UNDT's phrase "including the equivalent of the loss in contributions to pension" is unclear. The UNDT exceeded its competence to the extent that this phrase means any contributions by the Organization to either Ms. Hoxha or to the Pension Fund above and beyond the Organization's normal contribution to the Pension Fund. This would result in unjust enrichment. Any shortfalls in contributions to the UNJSPF would be a matter between the Organization and the UNJSPF. Finally, the award of "interest at the rate correspondent to the rate of inflation" lacks sufficient clarity to be implemented. The UNDT did not specify what this rate would be (i.e. with which country it would be associated or what the source of the rate would be).

#### **Ms. Hoxha's Answer**

36. Ms. Hoxha requests the Appeals Tribunal to uphold the impugned Judgment, including the relief granted.

37. She argues that the UNDT did not err when it found the application receivable. The remaining effects were the unreasonable delay in the completion of the reclassification process which resulted in her compensation not being commensurate with her function, and loss of career opportunity. ST/AI/1998/9 grants staff members a right to seeks reclassification.

38. Ms. Hoxha submits that the UNDT did not err by finding "remaining effects". Staff Rule 3.10(a) would not have been applicable to her case, as special post allowance only applies when a post at a higher level already exists. By delaying the reclassification process, the Administration benefitted from not having to pay the difference in salary between the FS-4 and FS-5 levels for three years. That cannot be termed as a reasonable period of time. The Secretary-General, neither before the UNDT or on appeal, has refuted with evidence her assertion that the function carried

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<sup>27</sup> The Secretary-General refers to any of the following dates being more reasonable as start dates for the calculation: 24 July 2019 as the date of the reclassification request, 16 August 2021 as date of the revised reclassification request, 1 March 2022 as the date of OHR's request for further clarification, 31 March 2022 as the date of the revised request with Ms. Hoxha's signature, 20 April 2022 as the date of submission of the amended Terms of Reference, and 14 and 16 June 2022 as the dates of notification of the OHR's decision to reclassify the FS-4 level post to the FS-5 level.

<sup>28</sup> The Secretary-General cites *Gudrun Fosse v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1305, para. 51; *AAD v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1267/Corr.1, para. 80; and *Kamal v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-204, para. 26.



out by her had been similar to those carried out by Budget Assistants at the FS-5 level in other missions.<sup>29</sup> Her functions did not change even after the reclassification.<sup>30</sup>

39. Ms. Hoxha contends that the UNDT did not err when it awarded compensation. The Secretary-General, objecting to the award of compensation for the period of delay in the reclassification and pointing out that she had not personally made the demand for the salary difference, has not shown any ground in law under which she could have made the demand. She had asserted that she had been carrying out the same functions since 2016 at the latest. The Secretary-General's reliance on cited jurisprudence is misplaced. In *Elmi*, the facts were different and involved Special Post Allowance.<sup>31</sup> In *Zangmo*,<sup>32</sup> the staff member had failed to demonstrate moral damage and, in *Menon*,<sup>33</sup> the application was not receivable.

40. Lastly, Ms. Hoxha submits that any lack of clarity does not amount to the UNDT exceeding its competence. For such claims, the Secretary-General could have sought clarification of the impugned Judgment.

### Considerations

41. Article 2(1)(a) of the UNDT Statute provides that the UNDT is competent to hear and pass judgment on an application filed by an individual against the Secretary-General as the Chief Administrative Officer of the United Nations:

(...) To appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms "contract" and "terms of appointment" include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance[.]

42. The UNAT has found in a number of decisions that an administrative decision is a unilateral decision of an administrative nature taken by the Administration involving the exercise of a power or the performance of a function in terms of a statutory instrument, which

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<sup>29</sup> Ms. Hoxha refers to her application before the UNDT, para. 22, and her closing submissions, para. 10.

<sup>30</sup> Ms. Hoxha refers to additional justification for reclassification, sent by UNIFIL to UNHQ in September 2019 (Annex 3 to the application).

<sup>31</sup> *Elmi v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-704, para. 36.

<sup>32</sup> *Zangmo v. Secretary-General of the United Nations*, Judgment No. UNDT/2015/056 (not appealed).

<sup>33</sup> *Ramesh Balakrishnan Menon v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1355.

adversely affects the rights of another and produces direct legal consequences.<sup>34</sup> It is to be distinguished from other governmental action of a regulatory, legislative or executive nature.<sup>35</sup>

43. A determination as to whether a decision is of an administrative nature or not is to be undertaken on a case-by-case basis having regard to the nature of the decision, the legal framework under which the decision was made, and the consequences of the decision.<sup>36</sup> In *Lee*, we noted that:<sup>37</sup>

the key characteristic of an administrative decision subject to judicial review is that the decision must “produce direct legal consequences” affecting a staff member’s terms and conditions of appointment; the administrative decision must “have a direct impact on the terms of appointment or contract of employment of the individual staff member”.

44. The Secretary-General is required to make appropriate provision for the classification of posts and staff according to the nature of the duties and responsibilities required.<sup>38</sup> Requests for the classification or reclassification of a post are to be made by the Executive Officer, the head of administration at offices away from Headquarters, or other appropriate official in the following cases, including:<sup>39</sup>

(d) When required by a classification review or audit of a post or related posts, as determined by the classification or human resources officer concerned.

45. Although Ms. Hoxha contends that ST/AI/1998/9 grants staff members a right to seek reclassification, it is not in dispute that in this case the request to reclassify her post was made by UNIFIL and not by Ms. Hoxha.

46. The procedure for classification or reclassification of posts requires:<sup>40</sup>

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<sup>34</sup> *Avramoski v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-987, paras. 39-40 (internal citations omitted).

<sup>35</sup> *Lloret Alcañiz et al. v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-840 (internal citations omitted).

<sup>36</sup> *Ibid.*, para. 62; *Avramoski* Judgment, *op. cit.*, para. 40; *Lee v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-481, para. 50 (internal citations omitted).

<sup>37</sup> *Lee* Judgment, *op. cit.*, para. 49 (internal citation and brackets omitted).

<sup>38</sup> Staff Regulation 2.1 (Secretary-General’s Bulletin ST/SGB/2018/1/Rev.1). Staff Rule 2.1(a) (ST/SGB/2018/1/Rev.1) provides that posts other than those of Under-Secretary-General and Assistant Secretary-General shall be classified in categories and level by a competent United Nations body according to standards promulgated by the Secretary-General and related to the nature of the duties, the level of responsibilities and the qualifications required.

<sup>39</sup> Section 1.1(d) of ST/AI/1998/9.

<sup>40</sup> Section 2.3 of ST/SGB/2018/1/Rev.1.

2.3 The classification analysis shall be conducted independently by two classification or human resources officers on the basis of the classification standards set in section 3 below. The decision regarding the classification of the post will be taken by, or on behalf of, the Assistant Secretary-General for Human Resources Management, or the head of office. The head of office will make the decision in the case of posts in the General Service and related categories administered by ECA, ECLAC, ESCAP, ESCWA, the United Nations Office at Geneva, the United Nations Office at Nairobi and the United Nations Office at Vienna, up to and including the G-7 level, and in the case of any other posts for which classification authority has specifically been delegated.

2.4 A notice of the classification results, including the final ratings and/or comments on the basis of which the decision was taken, shall be sent to the requesting executive or administrative office, which will keep it in its records and provide a copy to the incumbent of the post.

47. An incumbent staff member's role in initiating a classification review that may result in the authorized official requesting reclassification is governed by Section 1.3 of ST/AI/1998/9 which provides that:

Incumbents who consider that the duties and responsibilities of their posts have been substantially affected by a restructuring within the office and/or a General Assembly resolution may request the Office of Human Resources Management or the local human resources office to review the matter for appropriate action under section 1.1 (d).

48. The decision to classify or reclassify posts lies within the wide discretion of the Secretary-General. This discretion may not be exercised in an arbitrary, capricious, or illegal manner, nor violate the principle of equal pay for equal work under Article 23(2) of the Universal Declaration of Human Rights.<sup>41</sup> Importantly, the contract of employment and terms of appointment of a staff member do not entitle staff members to make such organizational decisions.

49. Where management evaluation of the contested decision is required, an application is receivable in terms of Article 8(1)(d)(i)(a) of the UNDT Statute if the application is filed within 90 calendar days of the applicant's receipt of the response by management to his or her submission.

50. A challenge to a reclassification decision is receivable by the UNDT only where there has been (i) a final decision taken in accordance with ST/AI/1998/9 or (ii) a finding of unlawful reasons denying a reclassification request. A key characteristic of an administrative decision is its capacity

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<sup>41</sup> *Chen v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-107, para 21; *Fuentes v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-105, para. 26.

to produce direct legal consequences adversely and directly affecting a staff member's terms of appointment or contract of employment.

51. In *Survo*, we confirmed the finding of the UNDT that “the persistent refusal to reclassify” a post was not receivable as the procedure to contest the classification of his post outlined in ST/AI/1998/9 had not been followed and that there was therefore no administrative decision denying such a request.<sup>42</sup> In *Menon*, we again found that the application was not receivable *ratione materiae* in that the UNDT has jurisdiction only in relation to administrative decisions which impact directly on the terms of appointment or contract of employment.<sup>43</sup> In the case of a post reclassification, a staff member must compete for the promotion and may not succeed in such application if the requirements for appointment are not met.<sup>44</sup> Similar considerations apply in this matter.

52. We accept that although extensive delays occurred before the request for reclassification was determined in this matter, no final reclassification decision had been made in accordance with ST/AI/1998/9 at the time that the application was filed by Ms. Hoxha to the UNDT. It is so that in certain circumstances the failure to take a decision may be implied to be an administrative decision which is open to challenge.<sup>45</sup> However, this is not so on the facts of this matter. Despite the delay which arose, no decision had been taken and there was no evidence of unlawfulness or any direct adverse effect arising from such failure by the time that the matter came before the UNDT. It was not open to the UNDT in these circumstances to infer that an administrative decision had been made.

53. Since no reclassification decision had been made, there could be no direct adverse effect on the terms of Ms. Hoxha's appointment or contract of employment. Ms. Hoxha held a contractual right to appointment at the FS-4 level but no right to reclassification of her post to the FS-5 level. She was not prevented from performing in terms of her contract of employment or enjoying the benefits under it. When her post was later reclassified, she was given the opportunity to compete for the promotion and succeeded in being appointed to such post. The fact that there was a delay in the reclassification of the post does not compel a different decision, given that it is a requirement

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<sup>42</sup> *Survo v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-595, paras. 21 and 65.

<sup>43</sup> *Ramesh Balakrishnan Menon v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1355, para. 28.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Tabari v. Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees*, Judgment No. 2010-UNAT-030, para. 1.

of receivability that an administrative decision must have been taken. Even if, in particular circumstances, the existence of a non-reclassification decision may be capable of being implied, no such determination is able to be made on the facts of this matter.

54. It follows for these reasons that the UNDT erred in finding the application receivable *ratione materiae*. The appeal must therefore succeed.

**Judgment**

55. The Secretary-General's appeal is granted and Judgment No. UNDT/2023/058 is hereby reversed.

Original and Authoritative Version: English

Decision dated this 28<sup>th</sup> day of June 2024 in New York, United States.

*(Signed)*

Judge Savage, Presiding

*(Signed)*

Judge Colgan

*(Signed)*

Judge Forbang

Judgment published and entered into the Register on this 2<sup>nd</sup> day of August 2024 in New York, United States.

*(Signed)*

Juliet E. Johnson, Registrar