



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1536

Milunka Tadic
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Abdelmohsen Sheha, Presiding Judge Nassib G. Ziadé Judge Gao Xiaoli
Case No.:	2024-1905
Date of Decision:	21 March 2025
Date of Publication:	8 May 2025
Registrar:	Juliet E. Johnson

Counsel for Appellant: Self-represented

Counsel for Respondent: Agnieszka Martin

JUDGE ABDELMOHSEN SHEHA, PRESIDING.

1. Ms. Milunka Tadic, a former staff member of the United Nations Office for Project Services (UNOPS), has filed an appeal of Judgment No. UNDT/2023/144 rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) on 28 December 2023.¹
2. In the impugned Judgment, the UNDT had dismissed Ms. Tadic's application challenging the decision not to renew her fixed-term appointment (FTA) due to the abolition of her post (contested decision), finding that it had no merit.
3. For the reasons set out below, the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) dismisses the appeal and affirms the impugned Judgment.

Facts and Procedure²

4. At the time of the contested decision, Ms. Tadic served as a Finance Associate at the G-6 level on an FTA in the Finance Team, Sustainable Development Cluster (SDC) within the New York Service Centre (NYSC) of UNOPS.
5. In 2022, NYSC underwent a restructuring process, by which, among many other changes, the SDC and the Peace and Security Cluster (PSC) were merged to create a single finance team. Prior to that, Ms. Tadic was provided and commented on various documents concerning the future arrangements for the Finance Team.³ As a result of the restructuring, three positions, including the "Finance Associate" (G-6/ICS-6) post that Ms. Tadic encumbered, were abolished and three new positions, including a "Finance Officer (Management Accounting)" position (ICS-8), were created.
6. On 23 March 2022, Ms. Tadic was verbally informed that following review of the merged finance team for SDC and PSC and considering her terms of reference (ToR), her contract would not be renewed beyond its expiration date on 30 June 2022. Ms. Tadic was informed of three internal consultant vacancies that she could apply for.

¹ *Tadic v. Secretary-General of the United Nations*, Judgment No. UNDT/2023/144 (impugned Judgment).

² The summary of facts is drawn from the impugned Judgment (paras. 4-8).

³ See, e.g., answer, annex 6 (document entitled "NYSC Finance thematic split").

7. On 6 June 2022, Ms. Tadic was formally notified that, although her request to get her contract extended until 30 September 2022 was granted, allowing her to reach 15 years of contributory service to the United Nations Pension Fund, her appointment would not be renewed beyond that date and she was advised to consider applying for other available vacancies.
8. On 19 June 2022, Ms. Tadic filed a request for management evaluation, contesting the abolition of her post.
9. On 3 August 2022, Ms. Tadic was informed that the contested decision was affirmed.
10. On 17 November 2022, Ms. Tadic filed an application with the Dispute Tribunal.
11. On 18 December 2023, Ms. Tadic filed a motion for anonymity. On 26 December 2023, the Secretary-General filed a response objecting to the motion for anonymity.
12. On 28 December 2023, the UNDT issued the impugned Judgment dismissing the application. The UNDT affirmed that the restructuring exercise was genuine.⁴ The Dispute Tribunal dismissed Ms. Tadic's contention that the newly created "Finance Officer (Management Accounting)" (ICS-8) position and the "Finance Associate" (G-6/ICS-6) position that Ms. Tadic encumbered were substantially similar and she should have therefore been retained by the Organization. The UNDT found that the newly created position was higher and had a higher level of responsibilities requiring a higher level of expertise than the level of Ms. Tadic's abolished post (G-6/ICS-6). Furthermore, of the five components of the "Finance Officer (Management Accounting)" (ICS-8) position, one component did not exist at all in the "Finance Associate" post (G-6/ICS-6) and the main part of one other component did not exist.⁵
13. The UNDT found that Ms. Tadic had been made aware of the restructuring exercise, she was not entitled under the Staff Regulations or Staff Rules to be consulted on the abolition of her post, and she had been given notice of the non-renewal of her appointment due to the abolition of her post.⁶ The UNDT was further satisfied that there was no clear and convincing evidence that the workplace issues between Ms. Tadic and her supervisor were linked to, or had any impact on, the restructuring process.⁷ The UNDT found that there was no substantive and specific material

⁴ Impugned Judgment, para. 46.

⁵ *Ibid.*, para. 32.

⁶ *Ibid.*, para. 38.

⁷ *Ibid.*, para. 42.

evidence sustaining the allegation of irregularity regarding the fact that the functions of Ms. Tadic's post were taken away from her and redistributed amongst consultants.⁸

14. Finally, the UNDT found that in cases of expiration of an FTA, there is no duty on the Organization to try to reassign a staff member.⁹ The UNDT concluded that Ms. Tadic had not met the requisite standard to rebut the presumption that the restructuring was genuine and therefore a valid reason for not renewing her FTA.

15. The UNDT dismissed Ms. Tadic's motion seeking anonymity on grounds that the record in her case did not contain sensitive material.¹⁰

16. On 22 March 2024,¹¹ Ms. Tadic filed an appeal, and on 24 May 2024, the Secretary-General filed an answer.

17. On 20 February 2025, Ms. Tadic filed a motion for correction of an arithmetic error and additional evidence, to which the Secretary-General filed an answer on 3 March 2025. By Order No. 594 (2025) of 6 March 2025, the request for correction was granted and the motion for additional evidence denied.

Submissions

Ms. Tadic's Appeal

18. Ms. Tadic claims that while the UNDT states that the restructuring process was ongoing from April 2021, the Secretary-General did not provide any evidence to show when the restructuring process had been formally launched. The only document that the Secretary-General attempted to proffer as evidence that team members were involved in the process from as early as April 2021 was in fact a document used for a completely different purpose, an exercise internal to the SDC team only, and this had already been explained by Ms. Tadic in her rejoinder.

19. Ms. Tadic claims that at the time of the events related to this case, there was a massive failure of UNOPS's internal structures leading into 2022, a matter factually established by the media coverage and publicly available records. In such circumstance, there could not be a

⁸ *Ibid.*, para. 43.

⁹ *Ibid.*, para. 45.

¹⁰ *Ibid.*, para. 15.

¹¹ The appeal was originally submitted on 28 February 2024 and timely re-filed on 22 March 2024 (after re-filing attempts on 18 and 19 March 2024 by e-mail).

presumption of “effective acts hav[ing] been regularly performed” or of procedural dealings being up to the otherwise expected standards. By failing to take these important facts into consideration, the UNDT failed to exercise jurisdiction vested in it.

20. Ms. Tadic contends that the UNDT refers to the abolition of three redundant posts, including the post that she encumbered. However, only one fixed-term post was abolished, while the other two posts were consultancy posts, one of which was vacant. The fact that the Administration annulled the existence of the entire ICS-6 level, thereby depriving Ms. Tadic of a potential lateral move, is a further indication that Ms. Tadic’s post was singled out for abolishment. Other ICS posts immediately up or down were kept intact. While no comparative review had been done, the UNDT could have found evidence of this in various other documents provided by both parties. The restructuring was thus not about what functions needed to be replaced. The outputs for the two teams, integrated or not, remained largely unchanged. The two teams subjected to integration had already been under one management team, within the same regional office, and sharing the same physical spaces. There was thus no actual redundancy of her post and the UNDT erred in failing to find that the reason which the Administration gave for its exercise of discretion regarding appointments was not based on correct facts.

21. Ms. Tadic contends that the UNDT erred in considering that the briefing on 23 March 2022 in which Ms. Tadic was informed that her appointment would not be renewed was a form of consultation. There was no effective consultation, in violation of Staff Regulation 8.1(s) and Staff Rule 8.1(f) and established jurisprudence. In that same meeting, Ms. Tadic was also informed that the team would be announcing three vacancies for consultancy posts in the following week. There were only 11 days between that meeting and the closing date for these vacancies, and such rushed order of events reveals intentions to effectively silence any questioning of the post abolishment out of fear that if done, it would affect the prospects in the selection process for the new consultancy posts. In this sense, the process was again not fair and not reasonable and the UNDT erred in not finding so.

22. Ms. Tadic submits that her abolished Finance Associate position (G-6/ICS-6) and the newly created Finance Officer position (ICS-8) were similar. She contends that the two components which were missing from her job description appear in other ICS-6 vacancies. She argues that if these components were missing from her ToR, it may be due to the Human Resources Section failing to update the files. She asserts that performance appraisal documents are better suited for a comparison of the posts, rather than “the backstopping matrix” used by the

Administration, which consisted of a table comparing ToRs of both posts. The Secretary-General thus took irrelevant matters into consideration in making his decision.

23. Ms. Tadic contends that the UNDT erred in considering that there was no link between her secondary supervisor's "hostile" behaviour and her non-renewal. She asserts that the hostile pattern of behaviour from her secondary supervisor started with an incident in March 2021 regarding a meeting she proposed to postpone. She claims that the UNDT "should have noticed" that, at that time, this supervisor did not have any formal supervisory role over Ms. Tadic. She also submits that during the pandemic, she asked for flexible working arrangements, which were denied whereas other colleagues could benefit from extraordinary flexible working arrangements. She contends that during a midyear performance review, her secondary supervisor suggested to her that she should be "sweeter" and more "entertaining" in her interactions with NYSC Senior Management, or else her performance at the end of the year may not be deemed satisfactory, which she understood as intimidation. She claims that it should have been apparent to the UNDT that the application presented examples of blatant violations of ST/SGB/2019/8 addressing discrimination, harassment, including sexual harassment, and abuse of authority and the UNDT exceeded its jurisdiction by considering that her interactions with her secondary supervisor were normal and aimed at proper administration and arrangement of work.

24. Ms. Tadic requests that the Appeals Tribunal either reverse, modify or remand the impugned Judgment, "which ever it finds most suitable for the circumstance". Should the Appeals Tribunal decide to reverse the impugned Judgment, Ms. Tadic requests that the Appeals Tribunal rescind the contested decisions to abolish her post and not to renew her appointment beyond 30 September 2022. Ms. Tadic asks that the Appeals Tribunal also set an amount of compensation that the Secretary-General may elect to pay as an alternative to the rescission of the contested decisions, or any other order. Ms. Tadic requests that the Appeals Tribunal grant her adequate compensation for harm, equivalent to two years' net base salary, on the basis of legal arguments provided under the Remedy/Relief sections of both her initial application to the UNDT and in her submissions pursuant to UNDT Order No. 32 (NY/2023).

The Secretary-General's Answer

25. The Secretary-General contends that Ms. Tadic's submissions fail to identify any errors in the impugned Judgment that would bring her appeal within the jurisdiction of the UNAT. Instead, her appeal comprises overlapping arguments which, to a significant extent, repeat *verbatim* the

arguments presented before, and rejected by, the UNDT. However, an appeal is not an opportunity for the parties to reargue their case. By simply expressing disagreement with the impugned Judgment and repeating the arguments presented before the UNDT, Ms. Tadic fails to discharge the burden incumbent upon her to satisfy the UNAT that the impugned Judgment was defective.

26. The Secretary-General recalls that it is a well-established principle in the Appeals Tribunal's jurisprudence that pursuant to Staff Rule 4.13(c), an FTA does not carry any expectancy of renewal. In the present case, NYSC underwent a restructuring process which resulted in the merging of two teams, and the abolishment of three positions, one of which Ms. Tadic occupied. As a result, UNOPS abolished her post and informed Ms. Tadic of the non-renewal of her FTA. This decision was not tainted by any arbitrariness, nor motivated by bias, prejudice, discrimination or any improper motivation. The UNDT's finding was fully supported by the applicable law and by the facts and evidence presented before it.

27. The Secretary-General submits that Ms. Tadic has failed to demonstrate that the UNDT erred in finding that there was no obligation of staff consultation on the abolition of a post. Unlike what Ms. Tadic contends, Staff Rule 8.1(f) and Staff Regulation 8.1(a) relate to the relationship between the Administration and staff representatives, i.e. the Staff Unions, and do not mandate any obligation on the Secretary-General to consult an individual staff member on the abolishment of his or her post during a restructuring process. Furthermore, Staff Rule 9.4 provides that "[a] temporary or fixed-term appointment shall expire automatically and without prior notice on the expiration date specified in the letter of appointment". Therefore, neither consultation nor prior notice is required for the non-renewal of an appointment. Nevertheless, Ms. Tadic was given the opportunity to discuss the restructuring process from 2021. She was aware of the restructuring process and informed of the non-renewal of her appointment well in advance.

28. The Secretary-General submits that Ms. Tadic has failed to demonstrate that the UNDT erred in considering that Ms. Tadic's abolished Finance Associate position (G-6/ICS-6) and the newly created Finance Officer position (ICS-8) were not substantially similar. At the outset, annexes 6, 10 and 12 submitted by Ms. Tadic to the UNAT in support of her arguments were not presented before the UNDT and, absent a motion showing exceptional circumstances as required by Article 2(5) of the Appeals Tribunal Statute (Statute) and UNAT jurisprudence, these annexes should not be admitted.

29. Moreover, Ms. Tadic's arguments lack merit. Her contention that the Human Resources section did not update her files regarding her functions is purely speculative. Her assertion that the post comparison should be based on her performance appraisal documents and not on the Secretary-General's "backstopping matrix" relies on no legal basis and the UNDT correctly rejected this argument. Furthermore, in addition to examining the "backstopping matrix" submitted by the Secretary-General, the UNDT also examined the vacancy announcement for the Finance Officer (Management Accounting) (ICS-8 level), the Job Description of the post Ms. Tadic encumbered, as well as two vacancy announcements for ICS-6 positions from other UN entities as a comparison. Based on these documents, the UNDT correctly found that the Finance Associate (G-6/ICS-6) and the Finance Officer (Management Accounting) (ICS-8) positions were not substantially similar.

30. The Secretary-General claims that Ms. Tadic has not demonstrated that the UNDT failed to consider the improper motives of her management in making the contested decision. At the outset, the Secretary-General asks that the Appeals Tribunal not admit annexes 10, 14, 15 and 16 submitted by Ms. Tadic as these were not presented before the UNDT and Ms. Tadic has failed to submit a motion showing exceptional circumstances for the admission and consideration of these documents. The Secretary-General avers that the non-renewal of her FTA was lawful and supported by facts. The reasons provided by the Secretary-General for the abolishment of the post—and for the consequent non-renewal of Ms. Tadic's FTA—were valid reasons clearly related to NYSC. Ms. Tadic's argument that her post abolishment was singled out because it was the only FTA and ICS-6 post abolished, preventing her transfer to another ICS-6 post, whereas the two other abolished posts were consultancies, fails to show any arbitrariness or motivation by bias, prejudice or improper motive.

31. The Secretary-General contends that Ms. Tadic's assertion that the UNDT should have noticed that the process appeared "unfair and unreasonable" because she had "only" 11 days to apply to the vacancies, which "reveals intentions to effectively silence any questioning of the post abolishment out of fear" is speculative, supported by no evidence, and she fails to demonstrate any error on the part of the UNDT. The UNDT also correctly noted that while there existed some workplace issues between Ms. Tadic and her secondary supervisor, there was no clear and convincing evidence that these issues were connected to or impacted the restructuring process. Rather, these were typical interactions aimed at effectively managing and organizing work and Ms. Tadic failed to demonstrate any bias, prejudice, or discrimination resulting from her interactions with supervisors or senior management.

32. Further, there is evidence of the opposite in that steps were taken by her secondary supervisor to give Ms. Tadic a chance to stay in the team and fill one of the three newly created positions. Indeed, at the 23 March 2022 meeting, Ms. Tadic was encouraged to apply for vacancies, particularly for three internal vacancies within the newly merged team. She decided to apply to only one of them, the Finance Officer (ICS-8) position. While Ms. Tadic was initially automatically screened out as she did not meet the academic qualification requirements, her secondary supervisor sought and acquired a waiver from the UNOPS People & Change Group, allowing her consideration despite not meeting the academic requirements. Thanks to this exemption, she was interviewed but was eventually not selected. Therefore, the UNDT did not fail to exercise jurisdiction vested in it or erred “in fact by insufficient finding of facts” or by not “noticing” facts, evidence, or “circumstances, causes, [or] consequences” presented by Ms. Tadic. Rather, it explicitly considered that those facts were not evidence of unreasonableness and unfairness.

33. The Secretary-General submits that the UNDT correctly applied the standard of clear and convincing evidence to assess whether the presumption of regularity of the restructuring and the subsequent abolition of Ms. Tadic’s post was rebuttable. As the Secretary-General established that the restructuring was genuine and that the abolition of Ms. Tadic’s post resulted from this restructuring process, the burden of proof shifted to Ms. Tadic who had to show that she was subject to an act of unreasonableness or unfairness, such as bias, prejudice, or discrimination. In this regard, the UNAT jurisprudence requires that the presumption be rebutted through clear and convincing evidence. Therefore, the UNDT did not err in law by using the clear and convincing evidence standard of proof, nor has Ms. Tadic shown that the UNDT erred in fact.

34. The Secretary-General requests that the Appeals Tribunal dismiss the appeal and affirm the impugned Judgment.

Considerations

35. Ms. Tadic challenges the impugned Judgment in several respects, contending that the UNDT failed to exercise jurisdiction vested in it, committed errors of law and of fact, resulting in a manifestly unreasonable decision.

36. Since Ms. Tadic’s contentions are numerous, touching upon most of the UNDT’s considerations, and for the sake of clarity, we shall follow the same substantive order of contentions as initially articulated by Ms. Tadic and categorized by the UNDT: (1) whether the restructuring

exercise was genuine; (2) whether consultation procedures with Ms. Tadic for the abolition of her post were properly undertaken; and (3) whether there were ulterior motives, bias, or discrimination against Ms. Tadic that undermined the restructuring exercise.

37. Before delving into the specifics of these contentions, we must first decide whether we accept the annexes adduced by Ms. Tadic to her appeal brief, in light of the Secretary-General's challenge to their submission.

Preliminary issue: additional documentary evidence

38. Ms. Tadic submitted some documents annexed as Nos. 6, 10, 12, 14, 15, 16 to her appeal brief. The Secretary-General opposes such submission as these documents are introduced for the first time on appeal without explaining the exceptional circumstances that would justify such late submission, as required by Article 2(5) of the Statute.

39. Under Article 2(5) of the Statute and Article 10(1) of the UNAT Rules of Procedure, a party to an appeal may seek to submit additional documentary evidence. For such a request to be accepted, the moving party must demonstrate the exceptional circumstances justifying the late submission and show that the evidence could not be presented to the UNDT as it was unknown to him or her prior to the issuance of the Dispute Tribunal's Judgment.¹²

40. In the present case, the aforementioned documents were additional documentary evidence presented for the first time on appeal. Ms. Tadic did not request leave to submit those documents. Nor did she explain the exceptional circumstances justifying the late submission. Those documents are, therefore, inadmissible.

Did the UNDT err in finding that the restructuring exercise was genuine?

41. In the impugned Judgment, the UNDT found that the restructuring exercise was genuine: it reflected the evolving business needs of UNOPS that required the abolition of Ms. Tadic's post and the establishment of a new higher post.

42. Ms. Tadic takes issue with these findings. She contends that the UNDT failed to exercise jurisdiction vested in it when it upheld the presumption of regularity for a decision that was made

¹² *Raed Khalil Mousa v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2021-UNAT-1151, para. 30.

amid massive failures of UNOPS's internal structures affecting the credibility of the entity itself. Ms. Tadic also disagrees with the UNDT's assessment of facts related to the genuineness of the restructuring exercise, given that the newly established post is substantially similar in responsibilities to the abolished one.

43. Ms. Tadic's first contention is without merit.

44. In *Rolland*, we have held that:¹³

[T]here is always a presumption that official acts have been regularly performed. This is called a presumption of regularity. But this presumption is a rebuttable one. If the management is able to even minimally show that the Appellant's candidature was given a full and fair consideration, then the presumption of law stands satisfied. Thereafter the burden of proof shifts to the Appellant who must show through clear and convincing evidence that she was denied a fair chance of promotion.

45. The presumption of regularity of administrative decisions is not only a matter of proof. More substantively, the presumption of regularity is a legal necessity for the proper functioning of public services. By enjoying that presumption, administrative decisions become enforceable unless and until such time that it is decided (i) to suspend their action, or (ii) to rescind them. This is not a subjective privilege for the Administration. If administrative decisions are not presumed regular, the Administration will not be able to execute them promptly, hence putting the smooth and continuous functioning of the public service at risk. As such, presumption of regularity continues to apply even when the Administration faces internal structural challenges, as those of UNOPS. This is without prejudice to the possibility for the staff member to rebut the presumption of regularity by providing clear and convincing evidence otherwise. For this reason, we do not find that the UNDT failed to exercise jurisdiction vested in it when it did not consider that the internal challenges within UNOPS affected the presumption of regularity as a matter of law.

46. We turn now to Ms. Tadic's second contention.

47. Staff Rule 4.13(c) provides that:¹⁴

A fixed-term appointment does not carry any expectancy, legal or otherwise, of renewal or conversion, irrespective of the length of service, except as provided under staff rule 4.14 (b).

¹³ *Rolland v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-122, para. 26.

¹⁴ Secretary-General's Bulletin ST/SGB/2018/1/Rev.2 (Staff Regulations and Rules of the United Nations).

48. Staff Rule 9.4 reads:¹⁵

A temporary or fixed-term appointment shall expire automatically and without prior notice on the expiration date specified in the letter of appointment.

49. According to the foregoing, this Tribunal has consistently held that an FTA does not carry a legitimate expectation for renewal.¹⁶ As a matter of law, the appointment comes to an end once the contract expires. This does not, however, mean that the discretion of the Administration is unfettered in matters of non-renewal. The Administration must act fairly, justly and transparently with the staff member, without bias, prejudice or improper motive. The staff member has the burden to prove that such factors played a role in the administrative decision.¹⁷

50. In the present case, the Administration notified Ms. Tadic on 23 March 2022 that her contract would not be renewed beyond its expiration date of 30 June 2022 because of the abolition of her post.¹⁸ Before the UNDT, Ms. Tadic claimed that the restructuring exercise was not genuine.

51. As we held in *Enrico Muratore Apro시오*:¹⁹

[G]enuineness is an attribute that ensures that the restructuring is not a charade to achieve an ulterior motive, for example to rid the Organisation of staff members whom it does not wish to have continue in its employment. But even a genuine restructuring, as described, can still be a vehicle to achieve such an ulterior goal, particularly in relation to individual staff members, if their selection for non-renewal is proven to have been motivated by considerations which are extraneous to the genuine reasons for the restructuring.

52. From a general perspective, Ms. Tadic's challenge to the genuineness of a restructuring exercise can be understood in two ways: a challenge to the merits of the restructuring exercise or a challenge to the motives of the restructuring exercise. Ms. Tadic challenged both. We will address the merits of the exercise, leaving the question of the motives to the last section of this Judgment where we consider Ms. Tadic's allegations of improper motives.

¹⁵ *Ibid.*

¹⁶ *Nouinou v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-902, para. 44.

¹⁷ *Abdurrahman Turk v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1395, para. 66.

¹⁸ Ms. Tadic's contract was further extended until 30 September 2022 allowing her to reach 15 years of contributory service at the United Nations Pension Fund. She was separated from service effective that date (appeal, annex 20, Letter of 6 June 2022).

¹⁹ *Enrico Muratore Apro시오 v. Secretary-General of the United Nations*, 2023-UNAT-1371, para. 87.

53. In terms of the merits of the restructuring exercise, we have consistently held that:²⁰

[A]n international organization necessarily has power to restructure some or all of its departments or units, including the abolition of posts, the creation of new posts and the redeployment of staff. The Appeals Tribunal will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. However, even in a restructuring exercise, like any other administrative decision, the Administration has the duty to act fairly, justly and transparently in dealing with staff members.

54. In reviewing the merits of a restructuring exercise, this Tribunal gives wide discretion to the Administration and does not interfere lightly with its exercise. This applies even if the restructuring exercise led to the loss of employment or could have been wiser.²¹

55. In the present case, the Administration made a review of the finance functions needed by the NYSC, following which it was decided that the PSC and SDC finance teams should be merged into a single NYSC finance team. Following that process, the Administration identified three redundant positions, including that held by Ms. Tadic on the G-6/ICS-6 level, and decided to abolish them, and to create three other positions, including a position of Finance Officer (Management Accounting) on the G-8/ICS-8 level. Until this point, the process appears to be a mere exercise of the Administration's discretion in restructuring its departments and units to properly respond to its evolving needs. Although Ms. Tadic claims that there was no actual redundancy, her argument remains unconvincing as the Administration enjoys wide discretion in organizing its internal structure as it deems appropriate. In so doing, and without need to examine the specifics of Ms. Tadic's position and that of the newly established position of Finance Officer (Management Accounting), we cannot see in what respect the Administration acted unfairly, unjustly, or lacked transparency in the treatment of Ms. Tadic.

56. And even if we would compare the abolished position with the newly established one, we would agree with the UNDT's conclusion that the newly established post, that was on the ICS-8 level, was higher than the abolished position that was on the G-6/ICS-6 level. As confirmed by the UNDT, the new position reflects a higher degree of responsibilities than the abolished position. We also agree with the UNDT that ToRs represent a valid, more stable, and more appropriate

²⁰ *Loeber v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-844, para. 18 (internal citations omitted).

²¹ *Lynn Elizabeth Collins v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1021, para. 28.

reference for comparison between these two positions than performance appraisal documents. Even if we followed Ms. Tadic's argument that performance appraisal documents are living documents reflecting mutually-agreed deliverables, it remains that these documents reflect the reality of the tasks assigned rather than the officially-assigned duties referenced in the ToRs. We also reject as speculative Ms. Tadic's argument that the ToR of her former position was outdated, especially when it was her who submitted that document.

57. As such, we do not find any issue with the merits of the restructuring exercise, and we affirm the impugned Judgment's finding that the restructuring exercise was genuine in the sense that it was made for valid considerations.

Did the UNDT err in finding that consultation procedures with Ms. Tadic for the abolition of her post were properly undertaken?

58. In the impugned Judgment, the UNDT relied on our precedent in *Mohammad Tofazzel Hossain*²² and found that the Administration was under no obligation to consult with Ms. Tadic during the restructuring exercise. It also found that Ms. Tadic did not cite any Staff Regulation or Rule that entitles her to be consulted on the abolition of her post. In any event, the UNDT found evidence that Ms. Tadic was consulted on the restructuring exercise, through her comments on the document concerning future arrangements for the Finance Team on 9 August 2021, and nothing prevented her from making any observations on the processes.

59. Ms. Tadic argues that the UNDT erred in law and in fact when it considered that an appropriate consultation process was made. Citing Staff Regulation 8.1(a) and Staff Rule 8.1(f), and relying on the UNDT Judgment in *Adundo*,²³ Ms. Tadic claims that there was no effective consultation with her prior to the abolishment of her post in a manner that is respectful to the basic principles of natural justice. Further, she claims that the UNDT erred in fact when it considered that her comments on the document on the future arrangements for the Finance Team in 2021 and during the meeting of 23 March 2022 were tantamount to an appropriate consultation on the restructuring exercise.

²² *Mohammad Tofazzel Hossain v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1359.

²³ *Adundo et al. v. Secretary-General of the United Nations*, Judgment No. 2012-UNDT-118, para. 74.

60. The primary question is whether a consultation process for the abolishment of a post with the affected staff member is necessary as a substantial procedure.

61. As we held in *Mohammad Tofazzel Hossain*:²⁴

[I]t does not follow from our Judgment in *Matadi et al.* that the Administration is under a legal obligation to consult with individual staff members who may be affected by the abolition of a post prior to reorganization or restructuring of the units in which they serve. Hence, in the present case, contrary to the UNDT's determination, the Head of the PMU was not required to consult with Mr. Hossain in the process of preparing the Strategy Report, and thus refraining from consulting him did not constitute an abuse of authority or other kind of illegality on the part of the Administration.

62. Further, Ms. Tadic's reliance on Articles 8.1(a) of the Staff Regulations and 8.1(f) of the Staff Rules is misplaced. Those Articles concern the effective participation of Staff representative bodies, e.g., staff associations and unions, in matters of interest for staff members of the United Nations, such as their conditions of work, general conditions of life, and other human resources policies. The legal framework does not place the Administration under the obligation to consult with every and each individual staff member affected by a restructuring exercise.

63. As such, we agree with the UNDT that consultation with Ms. Tadic was not required, as a matter of law, prior to the abolition of her post. Ms. Tadic's argument hence fails, and we do not need to discuss the other issues of fact that are immaterial to the outcome of the impugned Judgment.

Did the UNDT err in finding that there were no ulterior motives, bias, or discrimination against Ms. Tadic that undermined the restructuring exercise?

64. In the impugned Judgment, the UNDT held that, albeit observing "some workplace issues" between Ms. Tadic and her supervisor, there was no clear and convincing evidence that these issues were linked to or had an influence on the restructuring exercise.²⁵

65. Ms. Tadic disagrees with the UNDT's assessment of facts. She claims that the UNDT failed to exercise jurisdiction vested in it when it failed to make sufficient examination of the evidence and facts, especially after having noted the seriousness of the issues involved in its initial Order No. 032 (NY/2023). She also submits that the UNDT erred in law when it did not find that the alleged

²⁴ *Mohammad Tofazzel Hossain* Judgment, *op. cit.*, para. 70.

²⁵ Impugned Judgment, para. 42.

ulterior motives, leading to a predetermined outcome, were proven to the clear and convincing evidence standard. Ms. Tadic also points to documented events that had an “obscure side to them and can be confusing in terms of intentions due to the doublespeak technique used by the manager who was most prominently involved”. Further, she contends that the UNDT should have given a proper assessment of the facts in light of the timeline and the overlap of certain events that she had described.

66. We first reject Ms. Tadic’s allegation that the UNDT failed to exercise jurisdiction vested in it. While the UNDT had initially noted the seriousness of the matters involved in its Order No. 032 (NY/2023) justifying the gracious approach of accepting exceptionally long filings, this should not be considered as a prejudgment of the case. The impugned Judgment shows that the UNDT considered the evidence on the record within the circumstantial context of the case, arriving at its conclusion that these were workplace issues. Ms. Tadic’s dissatisfaction with the UNDT’s assessment of the fact does not constitute a valid ground to claim that the UNDT failed to exercise jurisdiction vested in it. As such, Ms. Tadic’s argument cannot be sustained.

67. As to the contentions of errors of fact and of law, we have ruled in *Staedtler* that:²⁶

Allegations of bias and discrimination are very serious charges which should not be lightly made.

68. In *Abbassi*, we have ruled that:²⁷

In order to overturn a finding of fact by the UNDT, the Appeals Tribunal must be satisfied that the finding is not supported by the evidence or that it is unreasonable. The Appeals Tribunal considers that some degree of deference should be given to the factual findings by the UNDT as the court of first instance, particularly where oral evidence is heard.

69. We also recall that under Article 2(1)(e) of the Statute, this Tribunal does not reassess the facts of the case. Rather, it examines the impugned Judgment for errors of fact, resulting in a manifestly unreasonable decision. As such, not every error of fact would render the impugned Judgment defective. An error of fact must be of such significance that it must have led the UNDT to reach an unreasonable decision. Unreasonableness could be found to occur when the finding of

²⁶ *Staedtler v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-547, para. 33.

²⁷ *Abbassi v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-110, para. 26.

fact is unsupported by the evidence, or when it is established on excessive inferences. It is the appellant's burden to show that such error exists.²⁸

70. In the present case, we have reviewed the case record in light of Ms. Tadic's various factual arguments and are satisfied that the UNDT undertook a careful assessment of the evidence, arriving at the conclusion that there was no clear and convincing evidence of ulterior motives. Although we understand Ms. Tadic's frustration, we do not find that the high threshold of unreasonableness was attained in the present case, and we will not disturb the findings of the UNDT. As such, we do not find merit in Ms. Tadic's claims that the UNDT erred in fact or in law in this regard.

71. For the foregoing reasons, the appeal must fail.

²⁸ *Mahmoud Mohamed Zeidan v. Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2024-UNAT-1496, para. 66 (internal citations omitted).

Judgment

72. Ms. Tadic's appeal is dismissed, and Judgment No. UNDT/2023/144 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 21st day of March 2025 in Nairobi, Kenya.

(Signed)

Judge Sheha, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Gao

Judgment published and entered into the Register on this 8th day of May 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar