



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1541

Mirriam Nalugya Kiingi
(Respondent/Applicant)

v.

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

JUDGMENT

Before:	Judge Nassib G. Ziadé, Presiding Judge Kanwaldeep Sandhu Judge Gao Xiaoli
Case No.:	2024-1957
Date of Decision:	21 March 2025
Date of Publication:	20 May 2025
Registrar:	Juliet E. Johnson

Counsel for Ms. Kiingi: Ron Mponda
Counsel for Secretary-General: Noam Wiener

JUDGE NASSIB G. ZIADÉ, PRESIDING.

1. Ms. Mirriam Nalugya Kiingi,¹ a former staff member of the Office of the United Nations High Commissioner for Refugees (UNHCR), contested the disciplinary decision to dismiss her for medical insurance fraud and to recover from her the financial loss of UGX ² 25,360,000 (contested decision).
2. By Judgment No. UNDT/2024/057 (impugned Judgment) of 4 September 2024,³ the United Nations Dispute Tribunal (UNDT) rescinded the contested decision, set the amount of compensation in lieu of reinstatement at two years' net base salary and set aside the recoupment from Ms. Kiingi of the medical expenses that had been disbursed.
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 in part and modifies the impugned Judgment.

Facts and Procedure⁴

5. At the material time, Ms. Kiingi served as Programme Associate (G-6) with UNHCR and was based in Yumbe, Uganda.⁵
6. In July 2021, Ms. Kiingi's son, SK, was hospitalized for Covid-19 and was initially admitted to a healthcare facility named Peace Medical Clinic (Clinic).⁶ The Clinic was run by a clinical officer (Clinical Officer) who had been Ms. Kiingi's primary medical care provider for some years.
7. On 9 August 2021, Ms. Kiingi submitted a request for an advance of medical expenses (Advance Request).⁷ In support of the Advance Request, she submitted *pro forma* invoices for the

¹ Answer form, Section II. In administrative documents in the case record she is named Mariam Nalugya Kiingi.

² Ugandan shilling.

³ *Kiingi v. Secretary-General of the United Nations*.

⁴ Summarized from the impugned Judgment as relevant to the appeal.

⁵ Impugned Judgment, para. 1.

⁶ *Ibid.*, paras. 7-9.

⁷ *Ibid.*, para. 10; Sanction Letter, p. 1.

purported medical care that SK was receiving in August 2021 at an isolation unit of the Mukono International Medical Centre (Mukono Centre) after he was transferred from the Clinic.

8. On 16 August 2021, pursuant to a request by UNHCR Human Resources, Ms. Kiingi submitted a more detailed *pro forma* invoice dated 17 August 2021.⁸

9. On 20 August 2021, a Field Security Associate at UNHCR, assigned to verify the claims regarding SK's Covid-19 treatment, visited the Mukono Centre, spoke with a receptionist (Receptionist) and reported to have found no evidence of SK's admission to the facility during the specified period.⁹

10. On 28 August 2021, the UNHCR Inspector General's Office (IGO) was informed that Ms. Kiingi was suspected of having submitted fraudulent advance claims against the UNHCR Medical Insurance Plan (MIP) to which she was subscribed.¹⁰

11. On 31 August 2021, Ms. Kiingi received an advance in the amount of UGX 22,608,00 (approximately USD 6,379).¹¹

12. On 27 October 2021, she submitted an MIP claim (Claim) for medical expenses she purportedly incurred for SK's care at the Mukono Centre, supported by three receipts, a detailed Final Invoice and an inpatient discharge form.¹²

13. On 30 November 2021, Ms. Kiingi received the additional disbursement for the medical expenses in the amount of UGX 2,752,000 (approximately USD 776).¹³

14. IGO ordered an investigation, which commenced on 15 December 2021.¹⁴ On 20 December 2021, IGO sent Ms. Kiingi a Subject Notice of Investigation to inform her of the allegations.

15. On 21 December 2021, Ms. Kiingi was interviewed as the subject of the investigation.¹⁵ The IGO Investigation Specialist also interviewed three other individuals. On 31 January 2022, IGO

⁸ Impugned Judgment, para. 66.

⁹ *Ibid.*, para. 225.

¹⁰ *Ibid.*, para. 11.

¹¹ Sanction Letter, p. 1.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Impugned Judgment, paras. 12-13.

¹⁵ *Ibid.*, paras. 14-16.

shared the draft investigation findings with Ms. Kiingi and gave her an opportunity to respond, which she did on 4 February 2022. On 31 May 2022, the Investigation Report was finalized.

16. On 5 July 2022, Ms. Kiingi was formally charged with misconduct.¹⁶ She responded to the charges on 1 September 2022.

17. On 22 March 2023, by Sanction Letter dated 13 March 2023, Ms. Kiingi was notified of the contested decision.¹⁷ The Sanction Letter informed her of her dismissal effective on the date of its transmission.¹⁸ It stated that the High Commissioner had been satisfied that it had been established that she had intentionally submitted:

1. On 9 August 2021, a medical advance request, supported by false *pro forma* invoices for the medical care that [her] son, [SK], was allegedly receiving in August 2021 at [the Mukono Centre], following which [she] received an advance of UGX 22,608,000 (...) on 31 August 2021, and

2. A[n] MIP claim dated 27 October 2021 for the actual medical expenses [she] allegedly incurred for [her] son's care at [the Mukono Centre], supported by false documentation, i.e. three receipts, a detailed final invoice ("tracking sheet"), and an inpatient discharge form, following which, after reconciliation, [she] received an additional UGX 2,752,000 (...) on 30 November 2021 for a total of UGX 25,360,000 (approximately USD 7,155).

18. In the Sanction Letter, the High Commissioner concluded that Ms. Kiingi's actions constituted misconduct, comprising fraud and the violation of Staff Regulations 1.2(b) and 1.2(e).¹⁹ The Letter informed her that the High Commissioner had considered that there were no mitigating circumstances, and the aggravating circumstances were that she had (1) defrauded "a significant amount of money causing significant financial loss to UNHCR" and (2) showed a reluctance to openly cooperate with IGO by arguing inconsistent explanations. The Sanction Letter stated that the High Commissioner had considered disciplinary measures imposed for similar cases and that her involvement in medical insurance fraud had irrevocably broken the trust between her and the Organization. Lastly, the Letter notified Ms. Kiingi that the High Commissioner had decided to recover from her the financial loss of UGX 25,360,000.

19. On 30 May 2023, Ms. Kiingi filed her application with the UNDT.

¹⁶ *Ibid.*, paras. 17-18.

¹⁷ *Ibid.*, para. 19.

¹⁸ Sanction Letter, pp. 1-2. Footnote omitted.

¹⁹ *Ibid.*, pp. 2-3.

The impugned Judgment

20. The UNDT rescinded the contested decision, set the amount of compensation in lieu of reinstatement at two years' net base salary and set aside the recoupment from Ms. Kiingi of the medical expenses that had been disbursed.

21. Relying on the testimonies of Ms. Kiingi and the other three witnesses on her part—(i) the Clinical Officer, (ii) a former Medical Officer at the Mukono Centre, and (iii) an acquaintance of Ms. Kiingi who was a medical nurse—, the UNDT affirmed the existence and operation of the external Covid-19 isolation unit affiliated with the Mukono Centre at the relevant time.²⁰ These witnesses were consistent, coherent, and unshakable in emphasizing the existence of the external isolation unit at the Mukono Centre, authorized by local health authorities. Their accounts detailed a process of collaborative healthcare delivery between their respective clinics and the isolation unit.

22. The UNDT found the two witnesses for the Secretary-General—the Administrator of the Mukono Centre and the Investigation Specialist—less reliable, lacking consistency and plausibility.²¹ The Administrator lacked the requisite authority and expertise to effectively dispute the existence of the external isolation unit affiliated with the Mukono Centre. The Investigation Specialist's investigation appeared fundamentally flawed due to critical oversights—his failure to visit the isolation unit and seek verification from government health authorities—and a reliance on less credible sources of information.

23. The UNDT further noted that the Investigation Specialist's decision to disregard the prohibition against observing the testimonies of other witnesses at the hearing demonstrated a potential bias on his part, undermined the impartiality and reliability of his subsequent testimony and contributions to the case, raised significant doubt on the thoroughness and impartiality of his investigation, and called into question the reliability of his investigative conclusions.²² It was therefore appropriate to afford less credibility to his testimony.

24. Turning to the question of whether SK received treatment for Covid-19 at the isolation unit, the UNDT relied on the testimonies of Ms. Kiingi, the Clinical Officer and the Medical Officer and

²⁰ Impugned Judgment, paras. 46-124, 191-195, 197-198, 203 and 214-217. The UNDT also noted that the testimonies of Ms. Kiingi's witnesses were supported by an 8 May 2023 letter of the Chief Administrative Officer of the Mukono District to the Medical Officer (*ibid.*, para. 196).

²¹ *Ibid.*, paras. 125-183, 199-202 and 204-210.

²² *Ibid.*, paras. 267-279.

was satisfied that SK had received the treatment.²³ The accounts of these witnesses were credible. They provided coherent and consistent narratives supported by their professional medical expertise.

25. Addressing the testimonies of the Administrator, the Field Security Associate and the Investigation Specialist, the UNDT held that the Secretary-General's failure to conduct a thorough investigation significantly weakened their claims.²⁴ The Administrator's testimony lacked the necessary authority and expertise to refute Ms. Kiingi's witnesses and did not carry the informed perspective required to address matters of medical care and patient treatment. The Field Security Associate's methodology in verifying the claim was fundamentally flawed, as it relied heavily on the account provided by the Receptionist. The Investigation Specialist's testimony was fraught with critical deficiencies that undermined its integrity and reliability: the overreliance of the investigation on the statements of the Administrator and the Field Security Associate; its failure to verify governmental records; and its failure to verify the existence of the alleged isolation unit or to consult with any medical professionals involved in its operations.

26. The UNDT held that Ms. Kiingi, the Clinical Officer and the Medical Officer presented credible accounts that affirmed the legitimacy of the invoices submitted for reimbursement.²⁵ The professional credentials of the Clinical Officer and the Medical Officer and their firsthand involvement in the treatment lend significant weight to the authenticity of the invoices. The Secretary-General did not successfully discharge his burden of proof concerning the allegations that the invoices were forged. The Investigation Specialist failed to consult with relevant medical professionals and to conduct any forensic or scientific analysis of the invoices. These oversights undermined the credibility of the entire investigative process.

27. The UNDT stated that the Secretary-General's argument challenging the credibility of the Clinical Officer's testimony was unfounded and overlooked Ms. Kiingi's justified reliance on his professional expertise as a properly licensed and experienced healthcare provider.²⁶ Concerning the allegation that the Clinical Officer misrepresented his title, it was common practice to refer to all clinicians—including clinical officers, medical officers, and other healthcare providers—as

²³ *Ibid.*, paras. 220-223, 227, 230 and 235-236.

²⁴ *Ibid.*, paras. 224-226 and 229-235.

²⁵ *Ibid.*, para. 237-253.

²⁶ *Ibid.*, paras. 254-260.

“doctors”. In addition, the Clinical Officer was authorized by the relevant government authority to practice medicine and manage his own clinic.

28. The UNDT held that the Secretary-General’s argument regarding Ms. Kiingi’s choice of medical facility was unfounded.²⁷ Her decision to rely solely on her family doctor instead of facilities with established payment arrangements with UNHCR was appropriate during a health crisis. Ms. Kiingi acted within her rights.

29. The UNDT set the amount of compensation in lieu of rescission at two years of net base salary.²⁸

Procedure before the Appeals Tribunal

30. On 4 November 2024, the Secretary-General filed an appeal of the impugned Judgment with the Appeals Tribunal, to which Ms. Kiingi filed an answer on 17 December 2024.

Submissions

The Secretary-General’s Appeal

31. The Secretary-General requests the Appeals Tribunal to reverse the impugned Judgment and uphold the contested decision or remand the case to the UNDT for consideration of all the relevant evidence. Alternatively, if the Appeals Tribunal finds the contested decision lawful, the Secretary-General requests that it modify the award of in-lieu compensation to reflect the time remaining until the expiry of Ms. Kiingi’s fixed-term appointment (FTA).

32. The Secretary-General argues that the UNDT erred on a question of fact, resulting in a manifestly unreasonable decision, by ignoring and failing to consider important evidence on the record, and thus erroneously holding that the Mukono Centre had established a separate isolation unit in which SK had been hospitalized and that the receipts submitted by Ms. Kiingi were genuine.

33. The Secretary-General submits that the UNDT erroneously dismissed the Field Security Associate’s testimony who had visited the Mukono Centre. Although the Clinical Officer and the Medical Officer, who testified on behalf of Ms. Kiingi, averred that SK was first admitted, on 4 August 2021, at the Mukono Centre, that he underwent tests there, including an X-ray, and

²⁷ *Ibid.*, paras. 261-266.

²⁸ *Ibid.*, para. 290.

was only then transferred to the isolation unit, the Field Security Associate went through the patients' log and found no record of SK.

34. The Secretary-General submits that the UNDT erred in finding that local state authorities authorized the creation of isolation centers. The 8 May 2023 letter of the Chief Administrative Officer of the Mukono District provides that while no isolation units were authorized, some hospitals were permitted to treat Covid-19 patients in their facilities; the letter does not include "isolation mechanisms" in its description of the authorized strategy. The UNDT further erred in failing to recognize the contradiction between the letter and the testimonies of the Clinical Officer and the Medical Officer.

35. The Secretary-General contends that the UNDT erroneously discounted the testimony of the Administrator who was also the co-owner of the Mukono Centre. The UNDT ignored the fact that the Administrator's testimony did not relate to the medical treatment allegedly received by Ms. Kiingi's son. The Administrator testified as to the existence of a separate isolation unit, which is a question an administrator of a business could answer.

36. The Secretary-General submits that the UNDT erred when it ignored the absence of any proof that the isolation unit existed. It is logically impossible to prove a negative. The UNDT ignored the inconsistency in Ms. Kiingi's story about the location of the isolation unit. The UNDT chided the Investigation Specialist for not having visited the isolation unit, but Ms. Kiingi had not provided its location during the investigation.

37. The Secretary-General submits that the UNDT ignored the inconsistency between the Clinical Officer's and the Medical Officer's testimonies about the role of the prior owner of the Mukono Centre in the treatment of SK in the isolation unit. The Clinical Officer testified that the prior owner had been responsible for running the isolation unit and treating SK at the time when the prior owner was already deceased.²⁹

38. The Secretary-General argues that the UNDT erred by finding that the invoices submitted by Ms. Kiingi were genuine. First, the UNDT ignored the inconsistency of the explanations as to

²⁹ The Secretary-General refers to a medical report which provides that the prior owner of the Mukono Centre was referred to the Kampala Hospital on 5 July 2021 and he passed away on 19 July 2021.

why the invoices submitted by Ms. Kiingi did not match the Mukono Centre's official records.³⁰ Second, the UNDT erred when it ignored the inconsistencies between the itemized invoices submitted by Ms. Kiingi, and the itemized treatment outlined by the Medical Officer in his Affidavit.³¹ The UNDT ignored the Medical Officer's inability to explain the differences. The relevant part of the hearing is missing from the impugned Judgment. In addition, an entire section of the Final Invoice is missing from the Affidavit, including costs that amount to UGX 9,568,000. Third, the UNDT ignored the fact that an X-ray allegedly taken of SK could have only been taken before the *pro forma* invoice was issued but is missing from it. The inclusion of the X-ray in the Final Invoice is demonstrative of its falsification, listing services that were never rendered. It is implausible that an X-ray of SK was taken when he was hospitalized at the Mukono Centre.

39. The Secretary-General contends that the UNDT erred when it awarded Ms. Kiingi two years' net base salary. Ms. Kiingi had nine months and one week left on her FTA. Thus, the award goes beyond the damage she would have suffered had the contested decision indeed been unlawful.

Ms. Kiingi's Answer

40. Ms. Kiingi requests the Appeals Tribunal to dismiss the appeal, compel the Secretary-General to comply with the impugned Judgment and award costs against the Secretary-General for manifest abuse of the appeals process. She requests the Appeals Tribunal to order the payment of all salaries and benefits withheld from her from the date of the contested decision to the date of the UNAT Judgment.

41. Ms. Kiingi argues that in making passing references to errors of law, the Secretary-General has not identified or specified such errors. The appeal is patently devoid of any objective factual or legal basis and is essentially a repetition of the arguments made before the UNDT and rejected by it.

42. Ms. Kiingi submits that the Secretary-General refers to inconsequential and minor discrepancies. The Secretary-General seems to have been fixated on the view that MIP-related

³⁰ The Secretary-General reiterates that the invoices submitted by Ms. Kiingi were stamped with stamps that were of a different shape and displayed a slightly different logo than the stamps used by the Mukono Centre; the header displayed phone numbers that were not the phone numbers of the Mukono Centre, but rather those of the Clinical Officer; and the invoice submitted on 16 August 2021 carried the wrong date (i.e., 17 August 2021).

³¹ The Secretary-General refers to a table detailing the differences.

fraud cases are only proven through a “paper trail”. The Secretary-General has omitted any material reference to the Investigation Specialist’s testimony with regard to his admission that he had not visited the isolation unit because the focus of his investigation was to verify the authenticity of the invoices produced by Ms. Kiingi, that the Investigation Specialist believed that the Medical Officer had dispensed the treatment, and that he did not doubt that SK had been treated for Covid-19.

43. Ms. Kiingi contends that the UNDT clearly identified the evidence necessary to arrive at its decision. The case requires no more evidence. The Secretary-General’s dissatisfaction with the outcome is not sufficient for a remand.

44. Ms. Kiingi submits that the Secretary-General’s plea to reduce the amount of in-lieu compensation is premised on the erroneous assumption that, in the absence of the allegation of wrongdoing, her FTA would not have been renewed. This argument ignores the fact that renewals are primarily based on performance and the exigencies of service. The Organization had no right to impose imaginary terms on how the compensation should be calculated. The Secretary-General should not be allowed to act with impunity.

45. Ms. Kiingi argues that the appeal shows a careless disregard for the truth and the objective consideration of the evidence, has made unfounded claims and is misleading. The appeal is frivolous and vexatious and amounts to a manifest abuse of the appeals process.

Considerations

46. This appeal raises two principal issues: first, whether the UNDT erred in ordering the rescission of the contested decision; and second, if that order is upheld, whether to uphold the award of compensation in lieu of reinstatement in the amount of two years’ net base salary.

47. With respect to its review of the UNDT’s order rescinding the contested decision, the Appeals Tribunal recalls as a threshold matter that its function is to determine if the UNDT made errors of fact, procedure, or law or exceeded (or failed to exercise) its jurisdiction.³² In determining whether the UNDT erred on a question of fact, the Appeals Tribunal will only interfere if the error results in a manifestly unreasonable decision.

³² *Ali Abdel Mon’em Aref Al Khatib v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2021-UNAT-1153/Corr.1, para. 62.

48. With respect to factual issues which are the focus of the Secretary-General's appeal, we further observe that the UNDT has "broad discretion in the determination of both the admissibility and weight of the evidence", and that, especially when oral testimony is involved, the UNDT is in the best position to assess witness demeanour and credibility.³³ These circumstances favour deferring to such assessments when supported by the record.

49. A further point regarding our review is that, in a case involving alleged fraud by a staff member, the Organization bears a heavy burden of proof. To sustain a finding of fraud, the Organization must establish each element of fraud by clear and convincing evidence showing that the "commission of the fraud ... [was] highly probable".³⁴

50. The impugned Judgment rested principally on factual determinations based on witness testimony and turned in large measure on determinations of witness credibility. In reviewing credibility determinations based on the written record, we look primarily to whether the Dispute Tribunal assessed the relevant factors in deciding credibility, which include: candour and demeanour; internal and external inconsistencies in the evidence; the calibre of the testimony compared to that of other witnesses testifying regarding the same events; whether the witness actually observed the events in question; and the "quality, integrity and independence of the witness' recall of the events".³⁵

51. The record in the present case confirms that the UNDT assessed the relevant factors in making credibility determinations. With regard to the Organization's key witness, the Investigation Specialist, the UNDT found substantial flaws in his underlying investigation, most notably a failure to physically verify the existence of the isolation unit or to verify government records. These failings significantly undermined the credibility of his conclusions. Moreover, the entire testimony of the Investigation Specialist was tainted by his violation of the rule prohibiting a witness from observing the testimony of another witness. This violation rightly cast substantial doubt on the entire content of his testimony. Likewise, the Mukono Centre's Administrator called by the Secretary-General was found to have limited direct knowledge on key issues, particularly as compared to the knowledge of the three witnesses called by Ms. Kiingi.

³³ *Al Waleed Abdelrahman Abdrabou v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1460, paras. 56 and 59 (internal citation omitted).

³⁴ *Doreen Nimusiima v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1431, para. 104.

³⁵ *AAE v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1332, para. 105 (internal citation omitted).

52. In light of the testimony of Ms. Kiingi's witnesses, including herself and the medical professional who treated her son, it was not erroneous for the UNDT to conclude that UNHCR had failed to establish fraud by clear and convincing evidence.

53. The Secretary-General's appeal asserts that there are multiple inconsistencies in the evidence, or failures of proof involving key facts, which undermine the conclusion that Ms. Kiingi's son was treated at a Mukono Centre facility. These challenges do raise a fair question as to whether Ms. Kiingi's medical care provider was, in fact, affiliated with the Mukono Centre during the time of treatment in question. But that is not the central or dispositive fact at issue. The UNDT held, based on credible evidence, that Ms. Kiingi's son had contracted Covid-19; that he was treated under the supervision of Ms. Kiingi's primary medical care provider; and that payment was made based on invoices from that provider reflecting the care he provided. Disputes about the technicalities of that primary care provider's relationship with the Mukono Centre, or whether he properly used the Mukono Centre's stamps on his invoices, simply do not implicate the core substantive issue with respect to Ms. Kiingi. The Secretary-General presents no evidence to support the conclusion that Ms. Kiingi was aware of any of the details of the relationship between the medical care provider and the Mukono Centre, much less intended to deceive UNHCR. Such a conclusion is pure speculation and was not supported by the evidence before the UNDT, and certainly not on a "clear and convincing basis".

54. Our conclusion regarding the evidence is further bolstered by the unique historical context in which the present case arose. At all relevant times, Uganda was being ravaged by the Covid-19 pandemic. Ms. Kiingi, faced with urgent and potentially life-threatening risk to her son, took steps which, in the comfort of hindsight, might be viewed with more skepticism. But since her actions took place at a point in time and in a place where survival was at stake, it is simply not reasonable to now draw every inference against her, particularly given the failure of the Secretary-General to meet his fundamental burden of proof.

55. In short, we find that the UNDT properly assessed the relevant factors in making its credibility determinations and properly determined that the Secretary-General had failed to establish fraud by clear and convincing evidence. The Secretary-General has not shown, on appeal, that these determinations were erroneous and that the UNDT erred on a question of fact resulting in a manifestly unreasonable decision. The UNDT's order to rescind the contested decision and to set aside the measure of recouping from Ms. Kiingi the medical expenses that were disbursed is therefore upheld.

56. We now turn to the issue of the compensatory remedy awarded, which was two years' net base salary in lieu of reinstatement. The Secretary-General challenges this award as excessive in light of the fact that Ms. Kiingi had only nine months and one week left on her fixed-term contract.

57. The UNDT Statute expressly permits the UNDT to award compensation in lieu of reinstatement in termination cases, subject to the limitation that exemplary or punitive damages may not be awarded.³⁶ The purpose of compensation in lieu of reinstatement as permitted by the UNDT Statute is to place the staff member in the same position in which they would have been, absent the contractual violation.³⁷

58. At the time of the contested decision, Ms. Kiingi was working under a fixed-term contract with just over nine months of the term remaining. Such a contract, as a matter of law, carries no expectancy of renewal, even for a staff member with an impeccable record.³⁸

59. While compensation in lieu of reinstatement is to be decided on a case-specific basis, awarding such compensation beyond the term of a fixed-term contract is by its nature unreasonable.³⁹ Moreover, the UNDT provided no explanation or reasoning for an award going so far beyond Ms. Kiingi's term of contract. Given the absence of compelling and articulated reasoning by the UNDT of the basis for this award, we must reduce the amount awarded to net salary for the period of nine months and one week.

60. Ms. Kiingi also contends that the Secretary-General's appeal is frivolous, warranting an award of costs against the Secretary-General. Article 9(2) of the UNAT Statute provides for such relief upon a determination that a party has "manifestly abused the appeals process". As this is a high threshold to meet, such relief is rarely awarded.⁴⁰ We find that the threshold has not been met and such an award is not appropriate here. While we have rejected the Secretary-General's arguments on the merits, we have agreed with the Secretary-General's challenge to the compensatory award. Moreover, nothing in the Secretary-General's appeal reflects abusive

³⁶ UNDT Statute, Article 10.

³⁷ *James Michel Songa Kilauri v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1304, para. 25.

³⁸ *Wassim Saleh v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1368, para. 71.

³⁹ *Gakumba v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-387, para. 16.

⁴⁰ *Ashraf Zaqqout v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2022-UNAT-1219, para. 59 (internal citation omitted).

conduct for which a penalty may be appropriate. We therefore deny Ms. Kiingi's request for relief under Article 9(2).

Judgment

61. The Secretary-General's appeal is granted in part, and Judgment No. UNDT/2024/057 is hereby modified.

Original and Authoritative Version: English

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

(Signed)

Judge Ziadé, Presiding

(Signed)

Judge Sandhu

(Signed)

Judge Gao

Judgment published and entered into the Register on this 20th day of May 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar