UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2013/029
Judgment No.: UNDT/2013/162
Date: 5 December 2013
Original: English

Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

BENFIELD-LAPORTE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Victor Rodriguez

Counsel for Respondent:
Bettina Gerber, UNOG

Introduction

1. By application filed on 17 June 2013, the Applicant, a Staff Development Assistant (G-7) at the United Nations Office at Geneva ("UNOG"), contests the decision to refuse to conduct a formal fact-finding investigation into her complaint of abuse of authority made against the Director-General, UNOG, within the framework of the Secretary-General's bulletin ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority).

2. She mainly requests compensation for moral damage and the alleged humiliation suffered.

Facts

3. The Applicant worked for the former Director-General, UNOG, as Personal Assistant/Administrative Assistant for many years. At the end of April 2011, the Applicant was introduced to the new Director-General, who asked her if she was willing to continue to serve him in the same position and functions, which she confirmed. In the following months, the Applicant worked as Personal Assistant/Administrative Assistant (G-7) of the new Director-General, UNOG.

4. On Thursday, 3 November 2011, the Applicant was called into the Director-General's office. According to her, "he was standing" and "the conversation did not last even one minute". The Director-General told her that there was a post at the Staff Development and Learning Section ("SDLS"), UNOG, "which need[ed] to be filled urgently" and that she had "to go there". To her question about the effective date of the transfer, the Director-General, "visibly irritated", replied: "see that with [the Director of Administration, UNOG]".

5. On the same day, the Applicant was told by the Director of Administration, UNOG, that the transfer would be effective Tuesday, 8 November 2011, since Monday, 7 November 2011 was an official holiday. The Applicant responded that she was willing to move out immediately, and moved to a "Visitor's Office" in the Office of the Director-General to finalize her work. Thereafter, the Chief,

SDLS, UNOG—to whom the Applicant was supposed to report on 8 November 2011—informed her that there was no urgency and that she could finalize her work. Following his approval, the Applicant went on annual leave and started her new appointment with SDLS on 28 November 2011.

6. By memorandum dated 4 November 2011, from the Officer-in-Charge, Chef de Cabinet, Director-General's Office, UNOG, the Applicant was informed of her lateral reassignment to SDLS as of 8 November 2011.

7. Also on 4 November 2011, the Director-General issued a letter of appreciation to the Applicant, which she asserts having received only in December 2011 by internal mail.

8. On 30 December 2011, the position within the Director-General's Office previously encumbered by the Applicant was advertised in Inspira.

9. On 22 February 2012, the Applicant, who in the meantime had met with the Geneva Ombudsman, met with a staff member of the Ethics Office to explain the conditions in which her transfer to SDLS was done.

10. On 16 March 2012, she addressed an official complaint to the Office of Internal Oversight Services ("OIOS"), to which she received an answer dated 17 April 2012 from the Director, Investigations Division, OIOS, advising her to file a complaint under ST/SGB/2008/5.

11. By letter dated 6 June 2012 addressed to the Assistant Secretary-General, Office of Human Resources Management ("ASG/OHRM"), the Applicant lodged a complaint for abuse of authority under ST/SGB/2008/5, in which she described the events of 3 November 2011 and stated that the manner in which her sudden lateral reassignment to SDLS was accomplished constituted an abuse of authority by the Director-General, UNOG. She attached relevant information and dated and signed her complaint.

12. By memorandum dated 18 June 2012, the ASG/OHRM noted that the Applicant's complaint "ar[ose] out of the decision to laterally re-assign [her]", and that it was her view that "the matter would, at this stage, be more appropriately

handled by the Management Evaluation Unit" ("MEU"). Hence, she advised the Applicant to first file a request for management evaluation, and if that process would not address the issues raised by the Applicant, "the matter [might] be re-considered in the context of ST/SGB/2008/5". The Applicant followed that advice and wrote to the MEU on 2 July 2012, indicating that she wished to request management evaluation of the decision to laterally reassign her to SDLS. However, by reply of 6 July 2012, the MEU declared her request time-barred.

13. On 30 July 2012, the Applicant forwarded the reply received from the MEU to the ASG/OHRM asking that the matter be pursued under ST/SGB/2008/5.

14. Following receipt of the Applicant's letter, the ASG/OHRM sought the view of the Chef de Cabinet of the Secretary-General, who approved the proposal to obtain the comments of the Director-General, UNOG. By memorandum dated 10 September 2012, the ASG/OHRM asked the Director-General, UNOG, to provide his comments regarding the issues raised by the Applicant in her complaint, which he did on 21 September 2012; thereafter, on 27 September 2012, the ASG/OHRM asked the Director-General, UNOG, for some clarifications which were provided on 22 October 2012.

15. On 7 November 2012, the Applicant inquired with the ASG/OHRM about the status of her complaint.

16. On 14 November 2012, the ASG/OHRM informed the Under-Secretary-General for Management ("USG/DM") that there was no basis for conducting a fact-finding investigation, and on 19 November 2012, the USG/DM asked the Chef de Cabinet of the Secretary-General for his views.

17. On 3 December 2012, the Chef de Cabinet of the Secretary-General approved the proposed course of action, and on the same day issued a memorandum to the Director-General, UNOG, informing him of the outcome of the review of the Applicant's complaint and reminding him to take great care when communicating decisions to staff members that they may consider adverse to their interests.

18. By memorandum of the same day, *i.e.* on 3 December 2012, the ASG/OHRM communicated to the Applicant her decision not to initiate a formal fact-finding investigation into her complaint of abuse of authority for lack of sufficient grounds. The memorandum was sent to the Applicant by e-mail on Friday, 7 December 2012.

19. On 5 February 2013, the Applicant submitted a request for management evaluation to the MEU, regarding the decision not to initiate a formal fact-finding investigation into her complaint.

20. By memorandum dated 18 March 2013, which the Applicant received on 19 March 2013, the USG/DM informed the Applicant that the challenged decision was upheld.

21. On 17 June 2013, the Applicant filed her application with the Tribunal and on 18 July 2013, the Respondent submitted his reply, with Annexes 2 to 5 filed *ex parte*.

22. On 5 August 2013, Counsel for the Applicant filed a motion for disclosure of the *ex parte* documents and at the same time requested leave from the Tribunal to file comments on the Respondent's reply.

23. By Order No. 117 (GVA/2013) of 7 August 2013, the Respondent was ordered to file a response to the Applicant's submission, if any, which he did on 30 August 2013.

24. By Order No. 129 (GVA/2013) of 10 September 2013, the Tribunal ordered that the Applicant and her Counsel be granted access to Annexes 2 to 5 filed *ex parte* by the Respondent and convoked the parties to a case management hearing that was held on 26 September 2013. During the case management hearing, the parties agreed to inform the Registry by 7 October 2013 whether or not they were willing to engage in mediation.

25. On 7 October 2013, both parties informed the Registry that they were not interested in seeking an amicable settlement of the case.

26. By Order No. 152 (GVA/2013) of 10 October 2013, the Tribunal requested to be provided with a copy of the e-mail with the contested decision, which—according to the Applicant's statement—was sent to her on 7 December 2012. The Tribunal further informed the parties that there was no need to hold a further hearing, since all relevant issues had been addressed during the case management hearing held on 26 September 2013.

27. Counsel for the Applicant provided the document requested by Order No. 152 (GVA/2013) on 11 October 2013.

Parties' submissions

28. The Applicant's principal contentions are:

a. The Director-General, UNOG, has the prerogative to choose his own team, but he committed an abuse of power in the way her lateral transfer was done; it is indeed an "essential general principle of law that every staff member has the right to be treated with dignity and respect, and to work in an environment free from discrimination, harassment and abuse", and any form of abuse of authority is prohibited, as stated in staff regulation 1.2 (a), in staff rule 1.2 (e) and in sec. 2.1 of ST/SGB/2008/5;

b. On 3 November 2011, the Director-General, UNOG, treated her without respect, in a brutal manner, and gave her only one and a half working days of notice to move to her new position in SDLS, which caused her moral damage and suffering; had he spent, on the day of the incident, "five minutes to explain that he had now chosen his new close colleagues, and that [she] would need to find another position, it would not have created any problem for [her] at all. She would have said that she was very pleased for him, and worked out a transition plan, and proper hand-over";

c. The Director-General, UNOG, did not "uphold the highest standard of conduct, and respect for United Nations Rules and Regulations"; though in view of his position, he had a particular duty to uphold these standards;

d. The reasons given for her "brutal" move were not true, since there was no urgency to fill the post in SDLS and the Chief, SDLS, even expressed his surprise about her sudden transfer, since the post had been vacant for two years; there was not even an office available for her at SDLS; moreover, her successor in the position of Personal Assistant to the Director-General is not qualified for the position;

e. In view of the above, her sudden lateral reassignment "did not and could not constitute a proper exercise of the Organization's discretionary power" and the Director-General blatantly abused his authority in the manner he transferred her to new functions;

f. The decision not to conduct a fact-finding investigation was not properly taken: the ASG/OHRM made her decision "very rapidly by referring to a simple problem of miscommunication in order to justify the manner of the sudden move";

g. Despite the fact that the ASG/OHRM concluded that the events described did not amount to prohibited conduct, the Chef de Cabinet of the Secretary-General felt "obliged" to write to the Director-General, UNOG, to remind him about the care to be exercised when communicating to staff members decisions that they may consider adverse to their interests which tends to show that she was not treated with dignity and respect; this memorandum is essential to the case and needs to be produced.

29. In view of the above, she requests "payment of adequate monetary compensation, recognition of the damage done and any additional relief that the Tribunal may consider appropriate for moral damage, and the humiliation suffered, by treatment of this sort, which represents a blatant disregard of [her] rights".

30. The Respondent's principal contentions are:

a. The scope of the case is "solely to determine whether the decision of the ASG/OHRM not to initiate a fact-finding investigation was lawful";

b. The complaint was reviewed in the context of sec. 5.14 of ST/SGB/2008/5 and the ASG/OHRM "correctly exercised her discretionary power and determined that there were no sufficient grounds to warrant a formal fact-finding investigation"; indeed, the ASG/OHRM applied the standard of review as stated in *Ostensson* UNDT/2011/050 that "a fact-finding investigation ought to be initiated if the overall circumstances of the particular case offer at least a reasonable chance that the alleged facts may amount to prohibited conduct within the meaning of the bulletin", and correctly concluded that "the way in which the Director-General transferred the Applicant to her new functions did not amount to an abuse of authority";

c. The Applicant's grievances were however taken "seriously and, consequently, the Chef de Cabinet of the Secretary-General indeed reminded the Director-General that great care should be exercised when communicating to staff members decisions that they may consider adverse to their interests";

d. The Director-General, UNOG, "has the discretionary authority to assign staff members to any of the activities of offices of the United Nations Office at Geneva", in accordance with staff regulation 1.2 c) and Annex IV of ST/AI/234/Rev.1 (Administration of Staff Regulations and Staff Rules), and in accordance with sec. 2.5 of ST/AI/2010/3 (Staff Selection System). The manner in which the lateral transfer of the Applicant was implemented did not constitute an abuse of authority within the meaning of sec. 1.4 of ST/SGB/2008/5, because she "was transferred to a position commensurate with her grade (G-7), background and qualifications", and "[h]er experience and skills do match the requirements of the post of Staff Development Assistant in SDLS"; "[a]t no time did the Director-General use his authority against the Applicant in order to damage her career or her reputation";

e. Also, before the Applicant's transfer, the Chief, SDLS, had been informed of her arrival and she was provided with an office when she took up her functions;

f. The Applicant failed to advance convincing evidence of improper motivations, and she places "exaggerated emphasis on the issue of 'urgency' [of the transfer] although it appears that there was simply a miscommunication in relation to this question"; also, the Applicant's successor was appointed in due respect of the applicable rules, following a competitive process, and the Applicant's argument that the Director-General, UNOG, wanted to promote another colleague of hers is without merit.

31. The Respondent holds that the decision of the ASG/OHRM not to initiate a fact-finding investigation in accordance with ST/SGB/2008/5 was lawful and that the application should be rejected.

Consideration

Scope of the application

32. At the outset, the Tribunal underlines that in the request for management evaluation of 5 February 2013 and in the application before this Tribunal, the Applicant merely contests the decision of the ASG/OHRM to refuse to conduct a formal fact-finding investigation relating to the Applicant's complaint of abuse of authority.

33. Therefore, and although the Applicant raised several times the allegation that her lateral transfer had been decided to favour the promotion of one of her colleagues, neither the decision to laterally reassign the Applicant to other functions nor the appointment of the Applicant's colleague to her former position are properly before the Tribunal. The Tribunal will therefore limit its considerations to the decision to refuse to conduct a formal fact-finding investigation into the Applicant's complaint.

Procedure followed to reach the contested decision

34. The Tribunal has first to examine whether the contested decision was legal on formal grounds, *i.e.* whether it was taken in accordance with the applicable law and did follow the correct procedural steps. In that regard, sec. 5 (Corrective measures) of ST/SGB/2008/5 reads in part as follows:

> 5.3 Managers and supervisors have the duty to take prompt and concrete action in response to reports and allegations of prohibited conduct. Failure to take action may be considered a breach of duty and result in administrative action and/or the institution of disciplinary proceedings.
>
> …
>
> *Formal procedures*
>
> 5.11 In circumstances where informal resolution is not desired or appropriate, or has been unsuccessful, the aggrieved individual may submit a written complaint to the head of department, office or mission concerned, except in those cases where the official who would normally receive the complaint is the alleged offender, in which case the complaint should be submitted to the Assistant Secretary-General for Human Resources Management (…)
>
> …
>
> 5.13 The complaint or report should describe the alleged incident(s) of prohibited conduct in detail and any additional evidence and information relevant to the matter should be submitted. The complaint or report should include:
>
> (a) The name of the alleged offender;
>
> (b) Date(s) and location(s) of incident(s);
>
> (c) Description of incident(s);
>
> (d) Names of witnesses, if any;
>
> (e) Names of persons who are aware of incident(s), if any;
>
> (f) Any other relevant information, including documentary evidence if available;
>
> (g) Date of submission and signature of the aggrieved individual or third party making the report.

> 5.14 Upon receipt of a formal complaint or report, the responsible official will promptly review the complaint or report to assess whether it appears to have been made in good faith and whether there are sufficient grounds to warrant a formal fact-finding investigation. If that is the case, the responsible office shall promptly appoint a panel of at least two individuals from the department, office or mission concerned who have been trained in investigating allegations of prohibited conduct or, if necessary, from the Office of Human Resources Management roster.

35. The Tribunal notes that the complaint submitted by the Applicant on 6 June 2012 contained all the elements required by sec. 5.13 of ST/SGB/2008/5 and was therefore complete. Also, in compliance with sec. 5.11 of ST/SGB/2008/5, she had addressed it to the competent responsible official, namely the ASG/OHRM, since the alleged offender was the Director-General, UNOG. Therefore, all the conditions for the ASG/OHRM to act upon the complaint were met as of 6 June 2012, and the Tribunal considers that this is the date that should be considered relevant in order to assess whether the ASG/OHRM acted "promptly" as required by sec. 5.3 and sec. 5.14 of ST/SGB/2008/5.

36. In the case at hand, the decision not to initiate a formal fact-finding investigation was made only on 3 December 2012, *i.e.* almost six months after the complaint had initially been lodged by the Applicant. The Tribunal is of the view that a period of six months obviously does not meet the requirement of 'promptness' contained in sec. 5.14 and also in sec. 5.3 of ST/AI/2008/5.

37. With respect to the fact that the Applicant had been advised, following receipt of her complaint of 6 June 2012, to first request management evaluation of the decision to laterally reassign her, the Tribunal finds that the issue of the lateral reassignment is not identical with the complaint that the Applicant had filed based on ST/SGB/2005/8. Rather, it is a wholly separate issue and the advice provided by the ASG/OHRM in this respect cannot be considered as an acceptable excuse not to promptly review the complaint of prohibited conduct as such.

38. Further, the Tribunal notes that the ASG/OHRM, before taking the contested decision, asked the alleged offender for his views. This cannot serve as a justification for the delay in handling the complaint, either. Indeed, such course of action has no legal basis in ST/SGB/2008/5. Rather, sec. 5.14 of ST/SGB/2008/5 requests and entitles the responsible official only to "promptly review the complaint or report to assess whether it appears to have been made in good faith and whether there are sufficient grounds to warrant a formal fact-finding investigation". The content of this provision is clear and unambiguous and any further steps, including contacting the alleged offender, fall under the exclusive responsibility of the fact-finding panel. This is confirmed by sec. 5.15 of ST/SGB/2008/5 which reads as follows:

> At the beginning of the fact-finding investigation, the panel shall inform the alleged offender of the nature of the allegation(s) against him or her. (emphasis added)

39. According to the Tribunal's considered view, it is the *rationale* of ST/SGB/2008/5 to restrict the competence of the responsible official to a mere review and assessment of the complaint in its original form, in order to make a decision whether or not to establish a fact-finding panel. For good reasons, any following decisions and requests for further explanations are put under the mandate of the impartial fact-finding panel. In this respect it is noteworthy that the Secretary-General's bulletin ensures in sec. 5.14 that the members of the fact-finding panel have to dispose of some expertise, when it provides that they have to be individuals "from the department, office or mission concerned who have been trained in investigating allegations of prohibited conduct or, if necessary, from the Office of Human Resources Management roster".

40. Only in cases in which the initial complaint is incomplete, and hence does not meet the requirements of sec. 5.13 of ST/SGB/2008/5, would it be acceptable for the responsible official to take further actions before conducting his or her "prompt" review and assessment as required by sec. 5.14 of ST/SGB/2008/5. However, the Tribunal notes that the Applicant's complaint of 6 June 2012 fulfilled all the requirements to be deemed complete, and the Administration never raised any further questions as to its details with the Applicant.

41. In view of the above, the Tribunal finds that the flaw in the procedure in arriving at the decision not to conduct a fact-finding investigation into the Applicant's complaint was twofold: on the one hand, the delay of nearly six months from the receipt of the complaint by the ASG/OHRM to the decision—which pursuant to the above-quoted legal provisions was to be taken promptly—was unjustified and undue. On the other hand, the fact that the ASG/OHRM contacted the alleged offender to get his views of the incident before assessing whether there were sufficient grounds to warrant a formal fact-finding investigation violates sec. 5.14 of ST/SGB/2008/5.

Grounds for the contested decision

42. The foregoing notwithstanding, the Tribunal now has to assess whether it was legal for the ASG/OHRM to refuse to establish a fact-finding panel to look into the allegations raised by the Applicant.

43. As a preliminary matter, the Tribunal notes that it has both the competence and the duty to assess whether there were "sufficient grounds" to warrant a formal fact-finding investigation within the meaning of sec. 5.14 of ST/SGB/2008/5. Unlike in other cases, *e.g.* the selection of staff (see *Ljungdell* 2012-UNAT-265), in this particular area no discretion in favour of the Administration can be accepted. Finding otherwise would allow the Administration to close cases at a very early stage, before conducting any in-depth analysis of the facts. Thus, the protection of staff members intended and offered by ST/SGB/2008/5 would be reduced to an unacceptable minimum and could be undermined. Therefore, if the administrative decision in a given case turns out to be based on too strict standards with respect to the requirement of "sufficient grounds", it is for the Tribunal to correct it. The Respondent hence cannot contend that the responsible official possesses a discretionary authority when reviewing and assessing complaints under sec. 5.14 of ST/SGB/2008/5.

44. With regard to the definition of "sufficient grounds", this Tribunal stated in *Ostensson* UNDT/2011/050:

> (…) [T]he Tribunal considers that the impact of section 5.14 would be defeated if the duty to conduct a formal fact-finding investigation were reduced to cases where prohibited conduct has already been proven. On the contrary, the very purpose of a fact-finding investigation is to establish whether or not the alleged prohibited conduct took place. Therefore, the requirement that there should be "sufficient grounds to warrant a formal fact-finding investigation" may not be too narrowly interpreted. (…) [A] fact-finding investigation ought to be initiated if the overall circumstances of the particular case offer at least a reasonable chance that the alleged facts may amount to prohibited conduct within the meaning of the bulletin.

45. Pursuant to the standards set out in the judgment quoted above, it is the responsible official's duty to assess whether there is a "reasonable chance" that the alleged facts described in the complaint—if indeed they occurred—would amount to prohibited conduct. Said responsible official also has to assess whether the complaint appears to have been made in good faith. It does not, however, fall into the mandate of the responsible official to assess whether the facts actually occurred. Therefore, the ASG/OHRM merely had to decide whether the situation described by the Applicant could or could not potentially amount to an abuse of authority by the Director-General, UNOG.

46. In view of the above, it is necessary to recall the definition of the concept of "abuse of authority" contained in sec. 1.4 of ST/SGB/2008/5:

> Abuse of authority is the improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.

47. The incident described by the Applicant obviously does not fall under any of the examples specifically mentioned in this provision.

48. However, the list of sec. 1.4 of ST/SGB/2008/5 is not exhaustive. The Tribunal is also mindful of sec. 2.1 of ST/SGB/2008/5, according to which "every staff member has the right to be treated with dignity and respect". The impact of this provision on the actual definition of 'abuse of authority' cannot be described in general terms. Indeed, the concrete meaning of such a right is open to a variety of possible interpretations, and might be influenced, *inter alia*, by the cultural background of each staff member.

49. Similarly, the concept of 'abuse of authority' cannot be understood to cover each and every case of impolite and awkward behaviour. Also in this area, different standards based on various cultural backgrounds do exist. Interpreting 'abuse of authority' too broadly could open the door to a wave of complaints related to minor incidents; this certainly is not the objective of ST/SGB/2008/5. It could also lead to the effect that pure criticism of—for instance—performance might be perceived as a possible lack of respect and damage to the staff member's dignity. Such a broad interpretation would even be counterproductive to an efficient prosecution of the types of conduct ST/SGB/2008/5 wishes to prevent and condemn. Hence, the Tribunal considers that no general criteria can be determined, but the legal situation needs to be assessed on a case-by-case basis.

50. With that in mind, in the instant case the Tribunal considers that the situation experienced on 3 November 2011 by the Applicant with the Director-General constituted, as the Applicant herself admitted, a very single, isolated and short incident. No dispute arose, and no offensive language was used. The Applicant also fully understood that it was for the Director-General, acting within his competence, to select his own team. There is no indication that the Director-General intended to cause the Applicant any harm. On the other hand, there may be no doubt that the Director-General could and should have transmitted the decision to reassign the Applicant in a better and more sensitive way than he did. The Tribunal fully understands that the Applicant, having spent years of dedicated service in the position of Personal Assistant/Administrative Assistant of the Director-General, felt that she was treated in a completely inappropriate way. In conclusion, the Tribunal considers that the behaviour

demonstrated by the Director-General constitutes an improper way to handle an uncomfortable situation rather than a possible abuse of authority.

51. Accordingly, the Tribunal finds that the ASG/OHRM did not err in deciding that the Applicant's complaint against the Director-General, UNOG, did not provide sufficient grounds to warrant a formal fact-finding investigation.

Remedy

52. The Tribunal notes that the Applicant did not ask for rescission of the contested decision, but only for payment of "adequate monetary compensation". Therefore—and despite its conclusion that the ASG/OHRM did not err when she decided not to open a formal fact-finding investigation—the Tribunal has to assess whether the Applicant is entitled to compensation for the procedural irregularities described above.

53. In that regard, the Tribunal notes that in *Ostensson* UNDT/2011/050, it considered that the Applicant "endured during three months and a half unnecessary psychological distress", because of the failure of the Administration to answer in due time to a harassment complaint, which warranted compensation. Similarly, in *Gehr* UNDT/2012/095, delays of more than 13 months in the handling of the Applicant's complaint of prohibited conduct were found by this Tribunal to be unacceptable, and to have caused the Applicant frustration and uncertainty, also warranting compensation. In *Appellant* 2011-UNAT-143, the Appeals Tribunal upheld the Dispute Tribunal's finding that the prejudice caused by the Administration's failure to respond to the appellant's complaint warranted compensation, and in *Shkurtaj* 2011-UNAT-148, the Appeals Tribunal confirmed the award of compensation for the Administration's failure to timely consider, act on, or communicate the Ethics Office's findings and recommendations to the appellant.

54. In the present case, as noted in para. 36 above, a period of six months to communicate a decision to the Applicant with respect to her complaint was far from being prompt, and deserves compensation because of the emotional distress and anxiety it caused to the Applicant. Taking into account all the circumstances

of the present case, the Tribunal considers it appropriate to award a compensation of USD3,000 to the Applicant for moral damages suffered as a result of that undue delay.

Conclusion

55. In view of the foregoing, the Tribunal DECIDES that:

a. The Respondent pay the Applicant compensation in the amount of USD3,000 for the inordinate delay in the handling of her complaint;

b. This amount shall be paid within 60 days from the date this Judgment becomes executable, during which period the US Prime Rate applicable as at that date shall apply. If the sum is not paid within the 60-day period, an additional 5% shall be added to the US Prime Rate until the date of payment.

c. All other pleas be rejected.

(*Signed*)

Judge Thomas Laker

Dated this 5th day of December 2013

Entered in the Register on this 5th day of December 2013

(*Signed*)

René M. Vargas M., Registrar, Geneva