UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2014/057
Judgment No.: UNDT/2016/013
Date: 24 February 2016
Original: English

Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

KRIOUTCHKOV

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Stephen Margetts, ALS/OHRM, UN Secretariat
Sarahi Lim Baró, ALS/OHRM, UN Secretariat

Introduction

1. The Applicant, a Russian Translator (P-3), Russian Language Unit, Conference and Documentation Services Section, Economic and Social Commission for Asia and the Pacific, contests his non-selection, based on the non-advertisement of a second post under Job Opening ("JO") 12-LAN-UNOG-25120-R-Geneva (L), and the selection of a candidate without any competition under said JO.

2. As remedies, he requests to be afforded "the UN obligations of good faith and due process in the full and fair consideration" of his case, as well as any relief customary in such instances at the discretion of the Tribunal.

Facts

3. On 14 September 2012, a vacancy for a post of Russian Reviser (P-4), Russian Translation Section ("RTS"), Division of Conference Management ("DCM"), United Nations Office at Geneva ("UNOG"), was advertised under JO 12-LAN-UNOG-25120-R-Geneva (L) (JO 25120). The deadline for applications was 20 November 2012. The Job Opening ("JO") read, *inter alia*:

> *This post is* located in the [RTS] in the [DCM]
>
> …
>
> the Reviser will be responsible for the following duties: …
> (emphasis added)

4. The Respondent claims that, since its initial introduction in the Inspira system, the corresponding JO concerned two identical posts: one to become vacant on 1 December 2012, and the other on 1 August 2013. The JO did not indicate that it concerned two posts.

5. The Applicant applied on 24 September 2012. Out of 40 applicants, five were screened as eligible: two from the roster of pre-selected candidates for similar positions—i.e., the Applicant and one other candidate—and three

non-rostered candidates. The Applicant had an informal interview by phone on 18 December 2012 with the Hiring Manager alone.

6. Upon recommendation of the Hiring Manager, dated 4 January 2013, the one rostered candidate other than the Applicant was selected on 7 January 2013. The selection memorandum signed by the Director-General, UNOG, indicated that "[DCM would] submit a different recommendation to fill post 500323 [the second post], which [would] be vacant on [1 August 2013]".

7. On 1 February 2013, after one of the non-rostered candidates had been found not suitable, the remaining two non-rostered candidates underwent a competency-based interview. The assessment panel recommended the two interviewed candidates—giving detailed comments based on their interviews—and the Applicant "as [a] rostered candidate without formal evaluation". The Central Review Committee endorsed these recommendations on 18 April 2013.

8. On 15 May 2013, the Hiring Manager recommended the three candidates, including the Applicant and the candidate eventually selected, while proposing for promotion one of the interviewed non-rostered candidates, who was indeed selected on 23 May 2013.

9. By email dated 23 May 2013, the Applicant was informed that he had been placed on the roster of pre-approved candidates for potential consideration for future JOs.

10. On 22 January 2014, the Applicant sent an email to the Chief, RTS, UNOG, requesting to be informed about the P-3/P-4 vacancies that had been advertised in 2013 in RTS. The Chief, RTS, replied on 30 January 2014 *inter alia* that no P-3 or P-4 positions had been advertised in 2013 in RTS.

11. On 31 January 2013, the Applicant sent a follow-up email querying if any P-3/P-4 posts had been filled in 2013. In reply to this query, a Senior Human Resources Officer, Human Resources Management Service ("HRMS"), UNOG, confirmed by email of 1 February 2014 that a P-4 position of Russian Reviser had been filled effective 1 August 2013 as a result of JO 25120.

12. In turn, by email of 3 February 2014 to said Senior Human Resources Officer, the Applicant indicated that it looked like a second round of selection for the same vacancy seemed to have taken place without any advertising, and asked what had happened after he had been rostered and a successful candidate had been appointed in January 2013; he also asked if any P-3 posts were filled without advertisement in the same year.

13. In response, on 5 February 2014, the Senior Human Resources Officer, UNOG, confirmed that two posts were associated to the JO in question, that "both posts were filled as a result of the selection process initiated by JO 25120 for which [the Applicant was] fully considered", and that "there was no 'second round' of interviews".

14. On 29 March 2014, the Applicant requested management evaluation of the decision "on the selection of [a] second candidate for the [JO] 12-LAN-UNOG-25120-R-GENEVA (L)". The decision was upheld by letter dated 29 April 2014 of the Chief, Management Evaluation Unit, on behalf of the Secretary-General.

15. The Applicant filed this application on 18 July 2014. He requested that the Administration disclose to him the "entire selection dossier" for the posts in question.

16. The Respondent filed his reply on 20 August 2014, with a number of annexes submitted *ex parte*.

17. By Order No. 133 (GVA/2014) of 22 August 2014, the Applicant was given access to such documents, redacted as determined by the Tribunal, and, upon the Tribunal's instructions, he filed comments on the Respondent's reply and annexes thereto on 4 September 2014.

18. Pursuant to Order No. 145 (GVA/2014) of 9 September 2014, the Respondent filed additional information on 3 October 2014, including two *ex parte* documents. The Applicant made comments on this filing on 16 October 2014.

19. By Order No. 108 (GVA/2015) of 20 May 2015, the parties were convoked to a case management discussion on the present case.

20. On 29 May 2015, the Applicant filed unsolicited additional comments on the Respondent's pleadings.

21. On 2 June 2015, the Tribunal held the above-mentioned case management discussion.

22. The parties having expressed their readiness to engage in mediation efforts, by Order No. 122 (GVA/2015) of 18 June 2015, the Tribunal suspended the proceedings to allow the mediation process to proceed. After three extensions of this suspension, the Office of the Ombudsman and Mediation Services advised on 2 November 2015 that the efforts at a mediated solution had failed.

23. A hearing on the merits of the case was held on 2 December 2015.

24. On 27 December 2015, the Applicant moved for an additional oral hearing to hear a number of witnesses.

Parties' submissions

25. The Applicant's principal contentions are:

a. It was the Applicant's understanding that the automated notice dated 23 May 2013 ended the related selection process launched in January 2013; however, the process continued and culminated in the selection of one more candidate later in the year. When the Applicant accidentally learnt about a second selection decision for the same vacancy, he inquired officially and obtained confirmation thereof. As ruled in *Skourikhine* UNDT/2013/113, "when the Administration fails to provide notification of an individual decision, it creates legal uncertainty for itself and for the staff member; it cannot then object if some of its decisions are contested long after they were taken";

b. Using one JO to covertly select candidates for two or more posts instead of conducting separate transparent selection processes prevents candidates from applying and limits the selection of candidates, in breach of the principles of art. 101.3 of the Charter and staff regulation 4.2. Also, several General Assembly resolutions require the announcement of "all existing vacancies", such as A/RES/33/143 and A/RES/51/226;

c. In contradiction to the mobility requirement proclaimed by the General Assembly (A/RES/53/221), all P-3 and P-4 promotions for Russian translators were, over the last 25 years, done strictly within the same services/units at all duty stations where Russian translation and language services/units exist (i.e., in Geneva, Nairobi, New York, Bangkok and Vienna);

d. The Applicant has over 30 years of professional experience as a Russian translator (24 years within the UN system) with an excellent performance record, and has been successfully rostered for promotions to the P-4 level since 2008. However, he has no real chance of promotion. He has been unsuccessfully applying for various Geneva language posts for almost 20 years. In light of this, he has reasons to believe that he is a victim of duty station-based discrimination. He currently serves at a regional commission in Bangkok, which Russian Language Unit is not part of the Department for General Assembly and Conference Management ("DGACM"), while the Translation Services/Units in Geneva, Nairobi, New York and Vienna are. However, at all duty stations there is an established practice of promoting translators strictly within the same services/units;

e. The promulgation of Administrative Instruction ST/AI/2010/3 (Staff Selection System) further diminished the Applicant's chances of a lateral move to another duty station, as sec. 2.5 of the instruction allows heads of departments/offices to transfer staff members at the same level within their departments or offices, including in a different location, without advertising the vacancy or without further review by a central review body. Since then,

all P-3 Russian translator posts were filled without a competitive selection process;

f. The Applicant has reasons to believe that he is also subject to personal retribution by the Chief, RTS, UNOG, triggered by the Applicant's actions related to an internal P-3 Russian Translator vacancy in UNOG in 2006; the Applicant shared with the Under-Secretary-General, DGACM, his concerns that the Chief, RTS, UNOG, was trying to recruit an external candidate for this internal post. In addition, certain candidates have been given preferential treatment, in breach of the applicable rules;

g. Neither the JO nor the automated notice mentioned that there was a second post to be filled; neither did any of the written or oral communications addressed to the Applicant throughout the selection process. This was misleading and created a false impression that the selection process had been completed in January 2013. The second post was not even advertised at all, and was filled without any competitive selection process. The Administration had an obligation to inform about the two posts and the two selection processes;

h. The first post under the JO at stake became vacant on 1 December 2012, whilst the second one did only on 8 August 2013, i.e., eight months after the first post and nearly 11 months after the JO was advertised; hence, it disregards the goal of 120 days to fill a post established in General Assembly resolution 65/247, and the standard of advertising posts six months before they become available;

i. The successful candidate was not interviewed with all other candidates in December 2012, neither was he rostered for P-4 posts; the Chief, RTS, UNOG, interviewed him as sole candidate in April 2013, whereas, as a rostered candidate, the Applicant could have been selected without going again through the competitive process;

j. There was a separate evaluation process for the second (non-advertised) post, in which the Applicant was not allowed to participate. The Applicant was interviewed by the Chief, RTS, UNOG, alone on 18 December 2012; later, on 1 February 2013, two other candidates—i.e., the selected candidate, who was previously based in Geneva and was not rostered, and a New York-based P-4 Russian reviser—were interviewed by a three-member panel. Clearly, there were two different rounds of interviews for two different posts; the Applicant was not invited to participate in the second one, despite the recruitment record stating that three candidates were invited to a competency-based interview and were recommended. It was also falsely stated that "[t]he Assessment Panel consisted of the same members throughout [the] evaluation process";

k. While the Respondent claims that the interview of 18 December 2012 was an informal telephone conversation, envisaged in the Inspira Hiring Managers Manual ("Inspira Manual") for rostered candidates, since the Hiring Manager did not express any doubts about his overall fit within the team/unit, the Applicant, as a rostered candidate, should have been recommended for selection to one of the two posts;

l. The candidate subsequently selected for the second post was also invited to the same informal conversation in December 2012, which effectively should have disqualified him as he was not rostered. Instead, unlike the Applicant, he was given a chance to compete for the second post at the interviews conducted by the Assessment Panel on 1 February 2013. Alternatively, if the December 2012 conversation was a full scale competency-based interview, the Hiring Manager should have submitted the list of recommended rostered and non-rostered candidates. At the time of the first recommendation, the candidate eventually selected for the second post was not mentioned in the evaluation record;

m. The Applicant was not informed about the composition of the panel; hence, he could not dispute its composition. The panel that conducted the interviews of 1 February 2013 did not include any representative from any other language service to ensure objectivity;

n. The evaluation of the Applicant was not objective even with respect to basic criteria such as languages and experience;

o. Rejecting a candidate who has undergone rigorous evaluations, found suitable and rostered so many times defeats the purpose of the roster facility. No objective manager would refuse such a candidate. The Hiring Manager demonstrated prejudice and bias towards the Applicant;

p. The Applicant's constant and repeated inclusion in the roster since 2008 created a legitimate expectation of being promoted to a P-4 post within a reasonable timespan. Other candidates included therein were promoted within two years.

26. The Respondent's principal contentions are:

a. The application is irreceivable *ratione materiae*. The issue of the contents of the JO and the alleged non-advertisement of the second post do not constitute an administrative decision for the purposes of appeal. The alleged non-advertisement of a post did not affect the Applicant's rights;

b. The application is irreceivable *ratione temporis*. The Applicant was unequivocally informed that the selection exercise was closed and that he had not been selected by the automatically generated email of 23 May 2013. Yet, he only requested management evaluation on 29 March 2014, that is, more than ten months later and well beyond the prescribed 60-day time limit. It is irrelevant if he believed that the notification related to the recruitment in January 2013. His communications with the Chief, RTS, UNOG, and the Senior Human Resources Officer, HRMS, UNOG, did not reset the notification date for the calculation of deadlines;

c. The JO at stake was envisaged for two positions from the outset. The applicable rules allow for the advertisement of more than one post via one JO, and this does not imply that any of the candidates were given less than full and fair consideration. The requirement to announce all vacancies was met as JO 25120 covered both post No. 500319 and post No. 500323;

d. The Organization enjoys wide discretion in selection matters and there is a presumption of regularity with regard to such decisions;

e. Being in the roster, the candidate selected for the first post was selected without further review by the central review body, in accordance with para. 9.1 of the Inspira Manual. The successful candidate for the second post underwent a competency-based interview. The Administration had no obligation to consider and recommend rostered candidates only. In line with para. 15.6 of the Inspira Manual, placement in the roster does not confer a right to be selected over non-rostered candidates;

f. There is no interview requirement for rostered candidates. The Applicant was interviewed in a less formal setting, which was allowed under the applicable legal framework. The interviewed candidates were reviewed by the same assessment panel. The Applicant's candidature received full and fair consideration, and the proper procedures were followed. The fact that the selection for the second post took more than 120 days does not flaw the recruitment, as this is just a benchmark rather than a firm requirement. The policy on mobility has not been violated, as the Applicant may apply for other posts;

g. The Applicant has failed to discharge the burden of proof regarding his allegations of duty station-based discrimination, and of a long lasting practice of promoting exclusively staff members within each duty station, as well as for the claim of personal retribution by the Hiring Manager; moreover, any complaint for retribution or retaliation should be directed to the competent authorities under ST/SGB/2005/21 (Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations) and ST/SGB/2005/22 (Ethics Office—

establishment and terms of reference). Also, the claim that he is unable to be laterally moved under ST/AI/2010/3 is unfounded;

h. The Applicant has not demonstrated any unlawful act and any compensable harm.

Consideration

Applicant's motion for an additional hearing

27. On 27 December 2015, the Applicant moved for an additional oral hearing, essentially to hear as witnesses the members of the assessment panel for the litigious post.

28. It should be recalled that the records of the recruitment process at stake were filed by the Respondent and shared with the Applicant for comment. The proceedings undertaken by the assessment panel, as well as its appraisal of the interviewed candidates and its recommendation, are contained in these records. Additionally, the Applicant had no dealings whatsoever with the panel, precisely because he did not undergo a competency-based interview. With this in mind, the Tribunal is not persuaded that the panel members could provide any significant information that is not recorded in the documents already on file.

29. At this juncture, after holding a case management discussion and a substantive hearing, in addition to receiving multiple written submissions by the parties, the Tribunal is sufficiently informed to make a determination on the issues before it, and both parties have had ample opportunity to develop their arguments. The motion for a further hearing is accordingly denied.

Receivability

Administrative decision contested

30. The Appeals Tribunal held in *Massabni* 2012-UNAT-238 that it is part of the duties and of the inherent powers of a Judge to adequately interpret and comprehend the applications submitted by the parties, and to "identify what is in

fact being contested". In practice, this is all the more important when the Applicant is self-represented and not legally trained.

31. In the instant case, the Applicant takes issue with the non-advertisement of a second post under JO 25120 and the selection of a second candidate without competition. As such, he is in fact emphasising the main flaws that, in his view, taint the decision not to select him for the second post filled under the JO. This is obvious from the Applicant's pleas throughout the proceedings.

32. Thus, inasmuch as this application seeks to impugn the Applicant's non-selection to the second post advertised under JO 25120, it concerns an administrative decision open to judicial review within the meaning of art. 2.1(a) of the Tribunal's Statute.

Time limits for management evaluation

33. The Applicant did not miss the mandatory time limits for formal contestation of the decision at stake.

34. According to staff rule 11.2(c), to be receivable, a request for management evaluation must be filed within "sixty calendar days from the date on which the staff member received notification of the administrative decision to be contested".

35. The Tribunal does not share the Respondent's position that the Applicant was notified of his non-selection by the automated email of 23 May 2013 advising that he had been placed on the roster of pre-approved candidates for potential consideration for future JOs.

36. Indeed, the deadlines for contesting his non-selection for the first position advertised under JO 12-LAN-UNOG-25120-R-Geneva (L) would have started as from the 23 May 2013 email. However, this cannot be the starting point of the time limits to contest the selection decision concerning the second post, for the simple reason that, at that date, the Applicant was not aware, and did not have any means to know, that a second post existed and that a second selection decision had been or would be made. In this respect, he has explained that, as he received the 23 May 2013 notification, he believed that only one post had been advertised

under the above-referenced JO and, logically, assumed that it was this one and only post that had been filled. It must be stressed that the wording of the notification did not in any manner clarify the number of posts included under the JO. On the contrary, since the advertisement used the singular, its wording could hardly be understood as referring to more than one post.

37. The relevant case-law has consistently adopted the view that time limits start to run as of the moment all relevant *facts* for a particular decision were known, or at least should have reasonably been known (see e.g., *Chahrour* 2014-UNAT-406, *Zewdu* UNDT/2011/043). In the case at hand, the Applicant only learnt on 5 February 2014 the crucial fact that a second non-selection had been taken when HRMS, UNOG, at his request, confirmed that two posts were associated with the JO in question and that both had been filled as a result.

38. The Applicant did submit his request for management evaluation on 29 March 2014, i.e., within 60 days of the above date. He observed the time limit for management evaluation and, subsequently, that for filing his application before the Tribunal. Hence, the application has not been rendered irreceivable for any failure to respect the statutory time limits.

Merits

39. The Administration is uncontestably required to announce existing and foreseeable vacancies. This obligation emanates from the resolutions of the highest legislative instance in the internal legal system of the United Nations, i.e., the General Assembly. Its resolution 33/143 requested the Secretary-General to issue bulletins "containing a statement of all existing vacancies as well as all those expected to arise in the following year", whereas resolution 51/226, prescribed the duty to "announce all vacancies so as to give equal opportunity to all qualified staff and to encourage mobility".

40. More recently, ST/AI/2010/3, that is, the central administrative issuance governing recruitment within the Organization, unequivocally provides:

> **Section 4**
>
> **Job openings**
>
> 4.1 Immediate and anticipated job openings for positions of one year or longer shall be advertised through a compendium of job openings. The compendium shall include both position-specific job openings and generic job openings. The compendium shall be published electronically and shall be updated regularly.
>
> …
>
> 4.4 The hiring manager or occupational group manager shall be responsible for creating the job opening and for promptly requesting the inclusion of its announcement in the compendium, with the assistance of the executive or local human resources office.

41. Further, sec. 2.5 of the same instruction makes it clear that the absence of advertisement of a vacancy is the exception, allowed only in a very specific hypothesis, by providing that:

> Heads of departments/offices retain the authority to transfer staff members within their departments or offices, including to another unit of the same department in a different location, to job openings at the same level without advertisement of the job opening or further review by a central review body.

42. The Respondent holds that the two posts at issue were advertised under JO 12-LAN-UNOG-25120-R-Geneva (L) and, in this connection, underscores that it is entitled to advertise more than one vacancy under one same JO. The latter is correct. ST/AI/2010/3 contemplates such option, as its sec. 1, para.(p), defines a "job opening" as a "vacancy announcement issued for one particular position *or for a set of job openings*." (emphasis added), and paras. 15.6.7 and 14.13 of the Inspira Manual expressly allow for it. However, it is the Tribunal's considered view that to validly cover several posts, the JO in question needs to clearly indicate so.

43. To shed light on this point, the Tribunal requested the Respondent to file further information specifically on the Administration's practice regarding the publication of several vacancies through one same JO. The information submitted as a result shows that announcing several posts by means of one announcement is

common practice, but also that at every occasion when two or more posts were advertised by one single JO, the latter clearly stated, one way or another, that it covered several posts. It is thus patent that while UNOG's practice may not go as far as to specify the posts covered by a JO, it makes it at least explicit in the concerned JO that several posts are to be filled. In the case at hand, the Administration departed from its own practice, and it seems to be the only example in the same year where two posts were advertised under the same JO without so mentioning it therein.

44. It follows that, despite the clear obligation to announce vacancies to be filled, the second post eventually filled under JO 12-LAN-UNOG-25120-R-Geneva (L) was in no manner indicated in this or any other JO. Therefore, said vacancy was effectively never advertised, in contravention of ST/AI/2010/3 and the above-cited General Assembly resolutions.

45. The Respondent has adduced evidence that the litigious JO was from the outset intended to include two posts of the same nature and grade. It remains that nowhere did the JO indicate that two posts were concerned. On the contrary, the JO was consistently drafted in the singular ("This post is …", "the Reviser …"). Even if one were to admit that it was genuinely planned to advertise two positions under one single JO, the Administration failed to follow its own procedures concerning publication. As a result, potential candidates had no means to know that two posts, albeit of the same nature, were to be filled.

46. The lack of announcement is a fundamental irregularity that, from an early stage, vitiated the recruitment procedure and the resulting non-selection decision as regards the second vacancy. Having concluded that the decision was deeply flawed, the Tribunal does not need, as a matter of procedural economy, to enter into other heads of illegality invoked by the Applicant.

Remedies

47. Given that the selection decision regarding the second post filled under JO 12-LAN-UNOG-25120-R-Geneva (L) was severely flawed, that decision cannot stand. It is accordingly rescinded. Notwithstanding that, pursuant to

art. 10.5(a) of its Statute, the Tribunal is bound, when rescinding a contested administrative decision concerning promotion, to set an amount of compensation that the Respondent may elect to pay as an alternative to rescission.

48. There is no set way for the Tribunal to determine the amount of such compensation, but it must be assessed based on the circumstances of each case (see *Sprauten* 2012-UNAT-219). Considering this, the Tribunal assessed the Applicant's chances of being selected for the second position to be filled (see e.g., *Niedermayr* 2015-UNAT-603). Given that, after appointing one of the five eligible candidates for the first post and deeming another not suitable, three candidates were short-listed for the second position at stake; all three were suitable candidates, as evidenced by the fact that they all were recommended. In the circumstances, it is reasonable to assume that the Applicant had a third of chance of success.

49. On these grounds, the Tribunal sets at USD1,000 the amount of alternative compensation *in lieu* of rescission. This amount takes into account the Applicant's chance of success, as well as the difference of net base salary between the one he received at his current grade and step and his potential income after promotion as of August 2013, when the litigious post became vacant. In view of *Hastings* 2011-UNAT-109 (para 19), the Tribunal feels compelled to limit the projection of the difference in salary to two years, even though, it is worth noting that at the time of this Judgment, more than two years have already elapsed since August 2013, and, as a matter of fact, the Applicant remains at the P-3, step XV, level as he has not been successful in his applications for promotion.

50. The Tribunal also awards the Applicant non-pecuniary damages in the amount of USD4,000. Suffice it to recall that, according to *Asariotis* 2013-UNAT-309 (para. 36),

> Where the breach [of the employee's substantive entitlements] is of a *fundamental* nature, the breach may *of itself* give rise to an award of moral damages, not in any punitive sense for the fact of the breach having occurred, but rather by virtue of the harm to the employee. (emphasis in the original)

51. As stated in para. 46 above, the violation of the Applicant's terms of appointment in the present case was indeed fundamental and grave, and necessarily tainted the entire procedure (see e.g., *Zhao, Zhuang, Xie* UNDT/2014/036, *Farrimond* UNDT/2014/062). Consequently, the Tribunal does not require further evidence of moral damage to be able to award compensation on this account.

52. Whilst art. 10.5(b) of the Tribunal's Statute was amended after the *Asariotis* jurisprudence to stipulate that such harm, to be compensated, must be "supported by evidence", this amendment does not apply to the instant case, by virtue of the general principle, repeatedly upheld by the Appeals Tribunal, barring the retroactive effect of rules (*Robineau* 2014-UNAT-396, *Nogueira* 2014-UNAT-409, *Hunt-Matthes* 2014-UNAT-444). Indeed, the application under review was filed on 18 July 2014, whereas the amendment in question was adopted on 18 December 2014, by General Assembly resolution 69/203, and did not enter into force before its publication on 21 January 2015 (*Ademagic* et al. UNDT/2015/115, *Sutherland* et al. UNDT/2015/116, *Featherstone* UNDT/2015/117).

Conclusion

53. In view of the foregoing, the Tribunal DECIDES:

a. The contested decision to fill a second position under JO 12-LAN-UNOG-25120-R-Geneva (L) is hereby rescinded;

b. Should the Respondent elect to pay financial compensation instead of effectively rescinding the decision, the Applicant shall be paid the sum of USD1,000 as an alternative;

c. The Applicant shall also be paid moral damages in the amount of USD4,000;

d. The aforementioned compensation shall bear interest in the United States prime rate with effect from the date this Judgment becomes executable until payment of said compensations. An additional five per cent shall be applied to the United States prime rate 60 days from the date this Judgment becomes executable; and

e. All other claims are rejected.

(*Signed*)
Judge Thomas Laker
Dated this 24th day of February 2016

Entered in the Register on this 24th day of February 2016
(*Signed*)
René M. Vargas M., Registrar, Geneva