



**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** Geneva

**Registrar:** René M. Vargas M.

REHMAN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Miles Hastie, UNICEF

## **Introduction**

1. The Applicant is contesting the non-renewal of her fixed-term appointment (“FTA”) as Programme Assistant, GS-6, in the Education Section of the United Nations International Children’s Emergency Fund (“UNICEF”), Islamabad, Pakistan Country Office (“PCO”), upon its expiration on 31 December 2015 due to funding constraints (“contested decision”).

## **Procedural history**

2. On 8 March 2016, the Applicant filed a motion for extension of time to file an application, deemed by the Tribunal as an incomplete application, informing that she was attempting mediation to resolve the matter. The Tribunal, by Order No. 48 (GVA/2016) of 10 March 2016, granted the Applicant’s motion and she filed her full application on 30 March 2016.

3. On 1 September 2016, the Applicant filed a motion for interim measures, requesting the Tribunal to suspend the decision taken by UNICEF, PCO, on 1 August 2016 to fund a newly created post of Programme Assistant, GS-6, Education Section, Peshawar, Pakistan, instead of funding her existing vacant post of Programme Assistant, GS-6, Education Section, Islamabad. The Tribunal, by Order No. 184 (GVA/2016) of 9 September 2017, rejected the Applicant’s motion for interim measures on the ground that it was beyond the scope of its jurisdiction.

4. In September 2017, the Applicant’s case was reassigned to the undersigned Judge. By Order No. 173 (GVA/2017) of 11 September 2017, the parties were called to a case management discussion on 18 September 2017 and the Respondent was ordered to file additional documents in support of the contested decision.

5. On 22 September 2017, the Respondent filed a motion for extension of time to comply with Order No. 173 (GVA/2017). By Order No. 184 (GVA/2017) of 25 September 2017, the Tribunal ordered that the documents be filed by 26 September 2017, which order the Respondent complied with.

6. On 29 September 2017, the Respondent filed, *inter alia*, a document entitled “submission to withdraw issue” which the Tribunal found to be rather a motion to amend his defence stating a different reason for the non-renewal decision. On the same date, the Applicant filed a motion entitled “request to confine/direct the Respondent to provide remaining documents advised by UNDT in CMD and Order No. 173 (GVA/2017), 184 (GVA/2017) before schedule the hearing on merit of cases [sic]”.

7. Through Order No. 186 (GVA/2017), the Tribunal rejected both the Respondent’s and the Applicant’s motion and by Order No. 187 (GVA/2017), it issued a notice of hearing and scheduling order. The hearing in relation to the present case was held on 4, 6 and 11 October 2017. The parties filed their closing submissions on 27 October 2017.

8. The Applicant has two other cases pending before this Tribunal:

a. In the first case (registered under Case No. UNDT/GVA/2016/017), she is challenging the decision not to select her to the post of Programme Assistant, GS-5, Polio Section, Peshawar; and

b. In the second case (registered under Case No. UNDT/GVA/2016/094), the Applicant is challenging the decision of the Office of Internal Audit and Investigation (“OIAI”) to close the investigation into complaints of harassment, discrimination and abuse of authority, lodged by the Applicant against other staff members.

9. While the Applicant joins issues of all cases in her three applications, the Tribunal will adjudicate each application and contested decision by way of a separate judgment. Therefore, this judgment will only address the decision not to renew the Applicant’s contract beyond 31 December 2015.

## **Facts**

10. The Applicant joined UNICEF, PCO Islamabad on 1 November 2006 as a Project Assistant, GS-5, on a temporary appointment in the Construction Unit. Prior to joining UNICEF, the Applicant had worked for different United Nations agencies for more than 10 years in different capacities.

11. She was later selected for the post of Program Assistant, GS-6, Construction Unit, UNICEF, PCO. This appointment expired on 31 December 2012. She was then granted an FTA as Programme Assistant, GS-6, UNICEF, Education Section, Islamabad, on 1 January 2013.

12. The Applicant alleges that she faced hostility from and discrimination by her immediate supervisor, against whom she filed a complaint of harassment. The allegations of harassment are dealt with in the Applicant's case No. UNDT/GVA/2016/094.

13. Additionally, the Applicant claims that the same supervisor engineered allegations of entitlement fraud against her, involving payments to a hotel during an Organization's workshop. An investigation was conducted into these allegations and the Applicant was cleared of all charges. This matter is also the subject of the Applicant's case No. UNDT/GVA/2016/094.

14. On 7 October 2015, the Applicant was informed by the former UNICEF PCO Representative, that due to funding constraints, her contract would not be renewed upon its expiration on 31 December 2015. She was, accordingly, separated from service on that date.

15. The Applicant requested management evaluation of the non-renewal decision on 27 November 2015. She received a response on 23 December 2015 upholding the contested decision.

16. On 30 March 2016, the Applicant filed her complete application contesting the non-renewal of her contract and the Respondent filed his reply on 5 May 2016.

**Parties' submissions**

17. The Applicant's principal contentions are:

- a. The decision not to renew her contract due to funding constraints is unlawful because there was no shortage of funds;
- b. Her salary was charged to the Gender Thematic Grant ("Thematic Grant") which had sufficient funds until 31 December 2017;
- c. The Education Section could not utilize all available funds during the period 2013-2015 and there was, in fact, a positive balance of donor funds;
- d. The non-renewal decision was arbitrary and motivated by improper motives by her former supervisor with whom she had a poor working relationship;
- e. She has been a victim of continuous harassment and discrimination by her supervisors; and
- f. The Respondent's action of changing the reason for non-renewal, from lack of funds to arguing that her functions could be carried out by other staff as a result of the restructuring, is indicative of the capricious, biased, malicious and arbitrary character of the decision.

18. The Respondent's principal contentions are:

- a. It is within the Administration's discretion to restructure its organizational departments or units, including re-allocation of its human and financial resources, provided that the exercise of discretion is lawful, rational and procedurally correct;
- b. The Tribunal's review in such cases is marginal and limited to examine whether the exercise of managerial discretion was reasonable, rational, lawful and free from procedural irregularities, bias and/or arbitrariness;

- c. A reduction in funding required the UNICEF PCO to alter the staffing structure in its education programme and one of the measures taken was the re-distribution of the Applicant's functions; and
- d. The burden of proof to establish that the decision not to renew her contract was unlawful rests with the Applicant.

### **Issues**

19. The Tribunal finds that the issues to be determined in this matter concern the lawfulness of the non-renewal decision and whether the Applicant is entitled to any remedies.

### **Consideration**

20. The then-applicable Staff Regulations and Rules (ST/SGB/2014/1) provided at regulation 4.5(c) that an FTA does not carry any expectancy, legal or otherwise, of renewal or conversion, irrespective of the length of service. Staff rule 4.13 states that:

#### **Fixed-term appointment**

- (a) A fixed-term appointment may be granted for a period of one year or more, up to five years at a time, to persons recruited for service of a prescribed duration, including persons temporarily seconded by national Governments or institutions for service with the United Nations, having an expiration date specified in the letter of appointment.
- (b) A fixed-term appointment may be renewed for any period up to five years at a time.
- (c) A fixed-term appointment does not carry any expectancy, legal or otherwise, of renewal or conversion, irrespective of the length of service, except as provided under staff rule 4.14 (b).

21. Section 1.7 of UNICEF Administrative Instruction CF/AI/2009-005 (Types of appointment and categories of staff) provides that:

1.7 A fixed-term appointment does not carry any expectancy of renewal or conversion, irrespective of the length of service. Notwithstanding this, a fixed-term appointment may be extended under certain conditions, as specified in section 4 of this instruction.

22. It is well established in the jurisprudence of the Tribunal that a fixed-term appointment does not carry any expectancy, legal or otherwise, of renewal or conversion to any other type of appointment (*Badawi* 2012-UNAT-261).

23. The Appeals Tribunal has noted that where the applicable Staff Regulations and Rules provide that a fixed-term appointment does not carry an expectancy of renewal and extinguishes *ipso facto* on expiry, a non-renewal is a distinct administrative decision that is subject to review and appeal *Obdeijn* 2012-UNAT-201. It is also trite law that the Administration has an obligation to state the reasons for an administrative decision not to renew an appointment to assure the Tribunals' ability to judicially review the validity of such decision.

24. In *Pirnea* 2013-UNAT-311, the Appeals Tribunal, in determining whether a non-renewal of a fixed-term appointment was based on a valid reason, *inter alia*, held that:

An administrative decision not to renew [a fixed-term appointment] must not be deemed unlawful on the sole ground that the decision itself does not articulate any reason for the non-renewal. But that does not mean that the Administration is not required to disclose the reasons not to renew the appointment. Rather, the Administration has an obligation to state the reasons for an administrative decision not to renew an appointment to assure the Tribunals' ability to judicially review the validity of the Administration's decision.

25. The reason(s) for non-renewal given to a staff member at the time of being notified of the administrative decision are subject to the Tribunal's review, especially when the decision is challenged by the staff member. Therefore, the reasons given ought to withstand the test of fairness, reasonableness, lawfulness and transparency in the decision-making process.

*Reason for non-renewal*

26. When the Applicant was notified of the non-renewal of her contract in October 2015, the letter from the former UNICEF PCO Representative informed her that “due to funding constraints, [her] contract [would] not be extended or renewed upon its expiration on December, 31 2015”.

27. The Applicant’s salary was charged to the Thematic Grant which was valid until 31 December 2017. Furthermore, the Applicant provided documentation to the Tribunal that proves the availability of funds under the Thematic Grant, thus allowing the Organization to extend her appointment.

28. However, in his reply to the application, the Respondent argued that there was a reduction of funding as a result of an exchange rate fluctuation. He, therefore, submitted that as a consequence, the staffing structure of the Education Programme of UNICEF PCO, Islamabad, had to be altered, the Applicant’s functions had to be re-distributed and, as a result, her FTA could not be renewed. More specifically, the Respondent advanced that it had been decided that the functions of the Applicant’s former post would be partly transferred to the new UNICEF Global Shared Services Centre (“GSSC”) in Hungary and that the remainder of the Applicant’s former functions would be re-distributed to the Business Transaction Centre (“BTC”) and to a GS-7 Programme Assistant post in Islamabad.

29. On 26 September 2017, the Respondent’s counsel made additional submissions in response to the Tribunal’s Orders No. 173 and 184 (GVA/2017), by which he had been ordered to file all relevant documents proving that the financial situation at UNICEF PCO, Education Section led to the non-renewal of the Applicant’s contract. In this submission, the Respondent argued that (emphasis added):



**UNICEF’s non-renewal decision was not taken as a consequence of a discrete and complete loss of a grant/funding source for the Applicant’s position.** Instead, it was taken on the basis of:

- (a) The replication of some of the Applicant’s functions by the Pakistan Country Office’s Business Transaction Centre (BTC) in Islamabad, and the replication of some of those functions by the General Shared Services Centre in Budapest;
- (b) The possibility of carriage of the remainder of the Applicant’s functions by a GS-7 staff member (whose other functions remained needed), creating a post structure with no more than one Education Section Programme Assistant in each duty station;
- (c) A historical and projected pattern of funding constraints in the Education Section, both in general and from the grant used to fund [the Applicant’s] post, which constraints necessitated selectivity in post funding; and
- (d) A re-examination of the priorities of the Education Section.

30. On 29 September 2017, the Respondent filed a document entitled “submission to withdraw issue, (re post funding)” stating that (emphasis added):

1. UNICEF respectfully seeks to withdraw an issue from contention in the above-captioned court file, to simplify the issues in dispute.
2. **UNICEF will no longer argue that there was insufficient funding in the Pakistan Country Office, Education Section, or under the Medium Term Strategic Plan (MTSP) thematic grant to fund [the Applicant’s] post in 2016.**
3. **UNICEF’s defence of the contested decision will be restricted to arguing that the continued funding of [the Applicant’s] post was not considered necessary or appropriate, given that her functions could be (and were, in fact) re-distributed to other staff.**

31. In his closing submission, the Respondent, *inter alia*, put forward that (emphasis added):

39. At the opening of the hearing, UNICEF sought to clarify its position: **it intended to withdraw a defence. It did not offer a clear admission of fact because it was unable to ascertain with confidence the funding situation. In the circumstances, it appeared appropriate to make the concession that it could not prove the actual unavailability of funds at the end of 2015.**

...

49. As noted above, the Applicant's post was not formally abolished until 2017. **UNICEF concedes that it cannot demonstrate that there were ultimately no funds that could have been used or diverted to fund her post.**

50. Should the Tribunal determine that (i) UNICEF's only justification for the non-renewal was a total absence of funds (and not a question of funding or programmatic priorities); and (ii) UNICEF is legally unable to justify the separation on grounds other than a total absence of funds, then (iii) the only question is remedy. But **UNICEF submits that its justification was not a categorical absence of funds.** It respectfully submits that, in any event, **UNICEF should be able to justify a separation, and rescission should not be ordered, in a case where it can demonstrate that there was no need for the Applicant's position.**

#### Lack of funds

32. It is commonplace that once the Respondent gives a staff member a reason for the non-renewal of contract, such a reason must be supported by facts (*Islam* 2011-UNAT-115). It follows that UNICEF has the obligation to support with incontrovertible evidence, the reason for non-renewal given to the Applicant in October 2015, which was funding constraints.

33. The Tribunal therefore finds the Respondent's submissions quoted above and specifically that, "UNICEF will no longer argue that there was insufficient funding in the Pakistan Country Office, Education Section, or under the Medium Term Strategic Plan (MTSP) thematic grant to fund Ms. Rehman's post in 2016" an admission that the reason provided for the non-renewal could not be and was not supported by the evidence.

34. The Tribunal notes that when a reason for non-renewal is given to a staff member, that reason becomes the basis for a staff member to challenge the administrative decision. It follows that when the Respondent decides to subsequently change the reason that constituted the basis for the contested decision, an applicant is deprived of the right, ability and opportunity to properly prosecute his/her case.

35. The Applicant was denied an opportunity to challenge the exact cause of her non-renewal since she laboured under the premise that there was no funding. Yet the fundamental, substantive issue turned out to have been something else. This denial of adequate advance notice of the alleged real reasons for her non-renewal that changed on the eve of trial and had been admitted more than once in several submissions cited above, in effect violated the Applicant's due process rights to a fair hearing. The Applicant's entire case was premised on a reason provided by the Administration, which two years later the Respondent even admits that he cannot defend or support with evidence.

36. The Respondent admitted he was not in a position to prove the lack of funds in the Thematic Grant as a justification for the non-renewal decision. Additionally, none of the Respondent's witnesses testified as to any documentation filed with the Tribunal to indicate to it how the Thematic Grant to which the Applicant's salary was charged was not capable of sustaining the Applicant in the employ of the Organization beyond 2015.

37. The decision-maker, who was the former UNICEF PCO Representative and also the Applicant's former supervisor, testified for the Respondent and they both stated that there were no funds to continue the Applicant's contract. However, none of them could provide the Tribunal with the proof of the actual lack of funds. Their statements were of a general nature and none of them could rely on any documentary evidence to support the reason of the alleged lack of funds within the Thematic Grant to which the Applicant's post was charged.

38. The Tribunal is appreciative of the fact that there may be fluctuations in donor funds to various United Nations projects and programmes. Nevertheless, the Organization cannot use the blanket reason of “funding constraints” as a reason for non-renewal without actual proof of lack of funding, how the lack of the funding adversely impacts the Organization in general and, specifically, how it affects the particular staff member whose contract is not being renewed allegedly because of it.

39. The fact that the Respondent conceded that he could not demonstrate the lack of funds leading to the non-renewal of the Applicant’s contract leads the Tribunal to draw the negative inference that UNICEF PCO had decided not to renew the Applicant’s contract based on other reasons that were disclosed neither to the Applicant nor to this Tribunal. Furthermore, the Tribunal does not find that the fact that the Applicant’s former position remained vacant after her contract was not renewed is, in itself, evidence of a lack of funds.

#### Restructuring

40. An international organization necessarily has the discretionary authority to restructure some or all of its departments or units, including the abolition of posts, the creation of new posts and the redeployment of staff (see *Gehr* 2012-UNAT-236, *Pacheco* 2013-UNAT-281).

41. The Tribunal notes that there are situations in which while there are available funds, the functions of a staff member are no longer required. That can be due to a reduction in workload in a particular department or programme, or due to the fact that the functions of a staff member have been subsumed by changes and or a restructuring process. A non-renewal decision can be justified in such a scenario (see *Filippova* UNDT/2016/008, *Ding* Order No. 88 (GVA/2014), *He* UNDT/2017/071 generally). However, the obligation is on the Respondent to prove the changes in the operational realities or the restructuring exercise that justify the non-renewal of a contract. There is need, for example, to provide proof of workload prognosis to support the reduction in work, thereby supporting a non-renewal decision on grounds of reduction of work or restructuring (*Filippova* UNDT/2016/008, *He* UNDT/2017/071).

42. The Tribunal further recalls that in exercising its discretionary authority to reorganise its priorities and restructure its workforce, the Administration must act in a fair and rational manner, which is procedurally correct and proportionate and in full compliance with the law. Any such restructuring or reorganization must also be supported by factual evidence.

43. In its judicial control of the exercise of such discretion, the Tribunal can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse (*Toure* 2016-UNAT-660).

44. As noted above, the Respondent now avers that rather than lack of funds, the non-renewal was based on the fact that there was no longer a need for the Applicant's position, that her functions could be taken over by the GSSC in Budapest and BTC in Islamabad and that the remainder of her former tasks were absorbed by a G-7 Programme Assistant.

45. Once again, the Respondent's new alleged reason for the non-renewal and the argument that the Applicant's functions were absorbed was not supported by any evidence. There was no proof of a restructuring of the Education Section or UNICEF PCO as a result of the coming into force of the GSSC or BTC that affected the functions of the Applicant. During cross-examination, the Applicant inquired from the former UNICEF PCO Representative if there was any restructuring of the Education Section undertaken in 2015. The PCO Representative answered that she did not know and that she would have to consult about it. Additionally, when she was asked about minutes of the meeting(s) during which the restructuring was discussed and decided, she said there were none.

46. The Tribunal finds that any restructuring that would lead to non-renewal of contracts should, at a minimum, be documented so as to support the reason for the non-renewal and to avoid the abuse of managerial discretion. Herein, the absence of any documentation of the restructuring exercise leads the Tribunal to question if in fact a restructuring exercise took place.

47. In *Toure*, the Appeals Tribunal held, *inter alia*, that as part of judicial review, it is necessary to determine whether the decision was vitiated by bias or bad faith, that is, if it was taken for an improper purpose. In this respect, the Tribunal will examine the circumstances surrounding the non-renewal of the Applicant's contract to determine whether the contested decision was tainted by improper motives. Other than the Respondent stating that the Applicant's post was no longer needed, he has not provided any proof of a workload prognosis conducted by UNICEF PCO in the Education Section to show that the Applicant's functions were no longer required. Recalling that the Administration changed the reason provided for the non-renewal from lack of funding/funding constraints to a claim of restructuring with the Applicant's functions no longer in need, the Tribunal finds that the latter reason is *ex post facto* and is equally unsupported by evidence and cannot be and, indeed, was not substantiated.

48. The Respondent should note that it is not a matter of the ends justifying the means: that is for him to be allowed to defend the Applicant's separation from the Organization on whatever grounds necessary with undue regard to the rights of the Applicant. The Tribunal is mindful that while its role is not to substitute its decision for that of the Administration, the Tribunal can and will intervene when the Administration fails to act fairly, justly and transparently, in dealing with its staff members (see *Hersh* 2014-UNAT-433).

49. From the Respondent's submissions above, it is clear that the Respondent has failed to defend and support the validity of the reason for the non-renewal decision given to the Applicant. The Tribunal is thus constrained to reach the conclusion that the Applicant's non-renewal was unlawful. Consequently, and repeated with emphasis, the Tribunal can and will draw an adverse inference from the Respondent's actions since to provide different reasons for the administrative decision as the case moved forward is indicative of arbitrariness, lack of transparency, lack of fairness and is devoid of accountability in the decision-making process at UNICEF PCO.

*Is the Applicant entitled to any remedies?*

50. Having found that the non-renewal decision was illegal, the Tribunal concludes that it has to be rescinded.

51. Article 10.5 of the UNDT Statute provides that as part of its judgement, the Dispute Tribunal may order one or both of the following:

(a) Rescission of the contested administrative decision or specific performance, provided that, where the contested administrative decision concerns appointment, promotion or termination, the Dispute Tribunal shall also set an amount of compensation that the respondent may elect to pay as an alternative to the rescission of the contested administrative decision or specific performance ordered, subject to subparagraph (b) of the present paragraph;

(b) Compensation for harm, supported by evidence, which shall normally not exceed the equivalent of two years' net base salary of the applicant. The Dispute Tribunal may, however, in exceptional cases order the payment of a higher compensation for harm, supported by evidence, and shall provide the reasons for that decision.

52. Since the present case concerns a matter of appointment, pursuant to art. 10.5 (a), the Tribunal has to set an amount of compensation to be paid as an alternative to the rescission of the contested non-renewal decision.

53. The Appeals Tribunal found that “any consideration of an award of damages for persons who are recruited on FTAs must take into account, among other things, the term of the contract and the remainder of the said term, if any, at the time of any alleged breach”. It has also given consideration to the length of expectancy of renewal (*Andreyev* 2015-UNAT-501, *Gakumba* 2013-UNAT-387). In *Mwamsaku* 2012-UNAT-246, the Appeals Tribunal held that in assessing compensation, each case should be treated differently, taking into account the particular situation of the claimant and that this process carries “a certain degree of empiricism to evaluate the fairness of the ‘in lieu compensation’ to be fixed”.

54. The Applicant became a GS-6 Programme Assistant in the Education Section of UNICEF PCO, holding a fixed-term appointment as from 1 January 2013 and since then she received yearly extensions until 2015, when the impugned decision was taken.

55. After nine years with UNICEF PCO and over 10 years of employment with the United Nations in different agencies and capacities, the Applicant found herself unemployed and as seen above, the reason given for the non-renewal of her contract could not be supported by the Respondent. The Thematic Grant to which her salary was charged had available funds until 31 December 2017 and specifically continued to be used to charge the salaries of other staff members in the Education Section in UNICEF PCO until 2016.

56. During the hearing, the Applicant testified that after many attempts at securing employment with the Organization, she managed to find another employment with the Organization in February 2017. In her submissions, the Applicant requested the Tribunal to order the renewal of her fixed-term appointment from 1 January 2016 with full pay until the date of the judgment.

57. In the Tribunal's view, the Applicant had a reasonable expectation of the renewal of her contract for one year. Having regard to all the circumstances, the Tribunal finds it appropriate to set the amount of compensation to be paid to the Applicant in lieu of rescission of the decision not to renew her appointment in the amount of one-year net base salary.

58. The Applicant also prayed for moral damages for the continuous mental stress inflicted on her due to the unlawfulness of the impugned decision and two-year salary compensation for being deprived of a continuous income as a result of the non-renewal decision. In her closing submissions, the Applicant asked for compensation in the amount of USD20,000 citing that her unemployment:



[D]eprived her from social and economic standard of living along with her family who is fully dependent on her. It also tainted the Applicant's professional career for the last two years and she lost several national and international job opportunities to develop her professional career that were specified for internal candidates of United Nations. It has further caused increase in anxiety, depression and mental stress for the Applicant which she has been facing along with her family by losing her professional status and economic earning for the last two years[.]

59. In *Nyakossi* 2012-UNAT-254, the Appeals Tribunal confirmed the authority of the Dispute Tribunal to order compensation to a staff member for actual pecuniary or economic loss, non-pecuniary damage, procedural violations, stress and moral injury and also for violation of the staff member's legal rights, under art. 10.5(b) of the UNDT Statute. (see also *Faraj* 2015-UNAT-587).

60. In *Asariotis* 2013-UNAT-309, the Appeals Tribunal held that to award moral damages, the Tribunal must in the first instance identify the moral injury sustained by the employee and noted that the identification is never an exact science and will depend on the facts of each case.

61. The Respondent in this case made a decision not to renew the Applicant's contract on grounds that he could not substantiate and support as indicated in his submissions above. When he realised this, he decided to change the reasons for non-renewal to an allegation of restructuring that he also could not prove and neither could the witnesses he called to affirm to the restructuring and how the process was done. The Applicant testified that she was unemployed for one year and told of how the situation stressed her and put her in a state of anxiety, while she was trying to look for alternative employment after finding herself separated from the Organization after several years of service.

62. In light of the foregoing, the Tribunal finds it appropriate to grant the Applicant moral damages in the amount of USD5,000.

**Conclusion**

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

- a. The decision not to renew the Applicant's FTA beyond 31 December 2015 is rescinded;
- b. The amount of compensation that the Respondent may elect to pay to the Applicant as alternative compensation is one-year net base salary;
- c. The Applicant shall be paid moral damages in the amount of USD5,000;
- d. The above 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; and
- e. All other claims are rejected.

*(Signed)*

Judge Alexander W. Hunter Jr.

Dated this 28<sup>th</sup> day of February 2018

Entered in the Register on this 28<sup>th</sup> day of February 2018

*(Signed)*

René M. Vargas M., Registrar, Geneva