



**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Isaac Endeley

KENNEDY

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**JUDGMENT**

---

**Counsel for Applicant:**

George G. Irving

**Counsel for Respondent:**

Albert Angeles, AS/ALD/OHR/ UN Secretariat  
Lucienne Pierre, AS/ALD/OHR/ UN Secretariat

## **Introduction**

1. By application filed on 1 April 2022, the Applicant, a Security Officer with the Department of Safety and Security (“DSS”) at United Nations Headquarters in New York, contests the 22 February 2022 decision of the Under-Secretary-General for the Department of Management Strategy, Policy and Compliance (“USG/DMSPC”) to impose upon him the disciplinary measures of written censure with loss of four steps in grade. The facts on which the disciplinary sanction was based were that “after printing, on 17 May 2017, confidential [United Nations] information in the form of e-mail correspondence about security-related issues, [the Applicant] lost this printed correspondence and did not report this loss to anyone. The same printed correspondence containing confidential information was published by [a private online blog] the next day”.

2. The Applicant requests the Tribunal to rescind the contested decision “on the grounds that it violates the principle of proportionality”.

3. In a reply dated 29 April 2022, the Respondent submits that the application is without merit and that the contested decision was based on facts established by clear and convincing evidence.

4. For the reasons stated below, the application is dismissed.

## **Factual and procedural history**

5. The facts underlying the contested decision are undisputed and are the same as those which formed the basis of a first sanction consisting in the disciplinary measures of written censure, loss of four steps in grade, and deferment, for two years, of eligibility for consideration for promotion, imposed on 1 October 2018. The Applicant contested this decision of 1 October 2018, and the United Nations Dispute Tribunal (“Dispute Tribunal” or “UNDT”), in Judgment No. UNDT/2020/209 dated 15 December 2020, affirmed the decision of the USG/DMSPC. The Applicant appealed to the United Nations Appeals Tribunal (“Appeals Tribunal” or “UNAT”).

6. In its Judgment 2021-UNAT-1184 of 29 October 2021, the Appeals Tribunal found that “the UNDT did not err in determining that the Appellant’s actions amounted to misconduct, regardless of whether those actions amount to gross negligence as required by ST/SGB/2004/15”. It also specified that “regardless of whether the Appellant’s actions are considered “gross negligence” pursuant to ST/SGB/2004/15, they still constitute a violation of the standard of conduct expected in Staff Regulations 1.2 (b), (i) and (q), and therefore, misconduct pursuant to the Staff Regulations and Rules.” However, it held that the initial sanction letter and record “provided inadequate reasons for judicial review leading to the finding that no rational connection or relationship between the evidence and the objective of the disciplinary action has been established”. As a result, the Appeals Tribunal was unable to assess the proportionality and lawfulness of the imposition of the disciplinary sanctions upon the Applicant. Consequently, while upholding the Dispute Tribunal’s finding of misconduct on the part of the Applicant, the Appeals Tribunal rescinded the contested administrative decision imposing the disciplinary sanctions. It also stated that it was “open to the Administration to issue a new administrative decision on disciplinary sanctions with adequate reasons”.

7. On 22 February 2022, in accordance with the Appeals Tribunal’s Judgment, the USG/DMSPC issued the new administrative decision described in para. 1 above. The task before this Tribunal now is to assess the proportionality and lawfulness of the disciplinary sanctions imposed upon the Applicant.

### **Considerations**

8. The Tribunal recalls that staff rule 10.2(a), under which the sanctions were imposed, provides for a variety of disciplinary measures besides separation or dismissal, including: (a) written censure; (b) loss of one or more steps in grade; (c) deferment, for a specified period, of eligibility for salary increment; (d) suspension without pay for a specified period; (e) a fine; (f) deferment, for a specified period, of eligibility for consideration for promotion; and (g) demotion with deferment, for a specified period, of eligibility for consideration for promotion. In the present case,

the contested decision imposed only “written censure with loss of four steps in grade” as the disciplinary measures.

9. The Appeals Tribunal has held that a decision on the appropriate sanction for misconduct “involves a value-judgment and the consideration of a range of factors” but that the Tribunal may overturn a prescribed penalty if it finds it to be too excessive in the circumstances of the case. In that regard, “[t]he most important factors to be taken into account in assessing the proportionality of a sanction include the seriousness of the offence, the length of service, the disciplinary record of the employee, the attitude of the employee and his past conduct, the context of the violation and employer consistency” (see *Rajan* 2017-UNAT-781, para. 48). In addition, the relevant considerations will necessarily depend on the circumstances and nature of the misconduct. Such considerations can include: (a) the staff member’s intent or whether the action was accidental, careless, reckless or deliberate; (b) the nature of the misconduct or whether the misconduct was minor or technical or substantive or severe; (c) the harm or damage to the Organization, employer, colleagues and other staff members, and clients and the public; and (e) the disciplinary history or future of the staff member, namely whether the staff member has a history of disciplinary violations or other misconducts and sanctions (see *Kennedy* 2021-UNAT-1184, para. 69).

10. In line with the Appeals Tribunal’s Judgment in the earlier case, and noting that it has already been established by clear and convincing evidence that the Applicant engaged in misconduct, the USG/DMSPC, in the contested decision, conducted a “proportionality analysis” of the various “factors” relating to the severity of the established misconduct and the appropriateness of the related disciplinary measures. The Tribunal will review each of the eight “factors” taken into account by the USG/DMSPC in order to assess the proportionality of the sanction, bearing in mind that “it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him” or to “substitute its own decision for that of the Secretary-General” (see *Sanwidi* 2010-UNAT-084, para. 40). Rather, this review will be “more concerned with examining how the decision-maker reached the

impugned decision and not the merits of the decision-maker's decision" (see *Sanwidi*, para. 42; and *Samandarov* 2018-UNAT-859, paras. 23-25).

11. In reviewing the "factors" applied in the contested decision, the Tribunal will consider whether it is sufficiently reasoned to allow for an assessment of the proportionality of the sanctions imposed and whether the sanctions are proportionate to the established misconduct.

*"Whether the action was accidental, careless, reckless or deliberate"*

12. The USG/DMSPC asserts that the Applicant acted "in a grossly negligent manner" and displayed a lapse of integrity and competence by mishandling confidential United Nations communications. According to the USG/DMSPC, the Applicant violated staff regulation 1.2(b) since, through the reckless disregard of his duties, he failed to uphold the highest standards of integrity and competence that staff members must uphold. He also violated staff regulation 1.2(i) by failing to exercise utmost discretion with regard to matters of official business, to which the confidential communications related. In addition, he violated staff regulation 1.2(q) by failing to exercise reasonable care when utilizing the Organization's property and assets. Moreover, the Applicant violated sections 5.1(b) and (c) of ST/SBG/2004/15 (Use of information and communication technology resources and data) since, through gross negligence, he made United Nations information and communication technology data available to persons who were not authorized to access them and acted in a manner contrary to the rights and obligations of staff members. In the USG/DMSPC's view, the evidence shows that the Applicant "did not even exercise simple prudence", even though he could have prevented the unauthorized dissemination of confidential information by adopting simple measures such as emailing or orally conveying the information, or saving it on an encrypted storage device, or immediately delivering the printed communications, or storing them in a safe place. The Applicant's actions stand in stark contrast with what was expected of a United Nations staff member with more than 20 years of experience in handling safety and security-related matters, and who was thus supposed to be cognizant of his obligations to exercise reasonable care in handling

the Organization's property and assets.

13. The Applicant submits that whereas the Appeals Tribunal's Judgment inviting the Administration to formulate a new decision with reasons "implied more than a *pro forma* exercise", the USG/DMSPC's chief justification for the reimposition of the same disciplinary penalty relies mainly on a repetition of the term "gross negligence", and that the new decision "has all the hallmarks of the original decision with questionable justifications". He disputes the USG/DMSPC's assertion that both the Dispute Tribunal and the Appeals Tribunal have affirmed that he acted in a "grossly negligent" manner. He states that he was only found to have violated the standards of conduct as set forth in staff regulation 1.2 requiring reasonable care. According to him, it is gratuitous to casually attribute the term to an act that is recognized as unintentional and of which the consequences were unforeseen, in order to justify a more severe penalty. He refers to Black's Law Dictionary, which defines gross negligence as "the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another" and notes that his lack of intent is an important factor relevant to the issue of proportionality.

14. The Tribunal notes that in the context of sections 5.1(b) and (c) of ST/SBG/2004/15, "gross negligence" may be viewed as an alternative to "knowingly", and an action may qualify as "gross negligence" even though the author acted without wrongful intent and without knowing that he was doing something wrong, but because he behaved in an obviously reckless way. Thus, while it is undisputed that the loss of confidential United Nations communications by the Applicant was not intentional, his behaviour was obviously reckless. According to his own description of the facts, "he placed the envelope of the printed e-mails [with the confidential information] on the bench in front of his security service locker in the locker room. He departed and later, realizing he did not have the envelope, returned to the locker room at the end of the shift but the envelope had been removed." (See *Kennedy* 2021-UNAT-1184, para. 11.) In addition, the

failure to report the loss could not be considered as an inadvertent error. In these circumstances, given the Applicant's length of service with the Organization, his position of responsibility and his overall experience, it is not unfair to conclude that he acted with "gross negligence" by failing to take reasonable steps to prevent the loss of confidential United Nations information and by failing to report the loss (in line herewith, see, for instance, *Kanganathan* UNDT/2016/017, para. 51). The Tribunal also observes that, contrary to the Applicant's assertions, the Appeals Tribunal did not expressly state that the Applicant's misconduct did not constitute "gross negligence".

15. The Tribunal therefore finds that the USG/DMSPC has considered the totality of the circumstances surrounding the Applicant's misconduct and has provided sufficient justification to sustain the conclusion that the Applicant acted with "gross negligence" in his handling of the confidential United Nations communications at issue in this case.

*"Whether the staff member made full, timely disclosure to a direct or indirect supervisor; whether the staff member followed operational procedures in connection with the misconduct; whether the staff member was self-aware of the conduct"*

16. The USG/DMSPC notes that the Applicant did not report the loss of the communications containing confidential information either immediately after he became aware of the loss, or after the communications were published by a private online blog. "By failing to report the loss of confidential [United Nations] information to anyone, [the Applicant] violated staff regulation 1.2(b) since, through his actions, he failed to uphold the highest standard of integrity and competence". The Applicant subsequently acknowledged that this was a mistake and that he should have reported the loss. In addition, the Applicant occupied a leadership position in the Headquarters Staff Union and as such, he should have appreciated the significance and particular sensitivity of the confidential information contained in the communications and the consequences of losing it.

17. The Applicant states that the contested decision fails to take into account the explanations he provided for his failure to immediately report the loss, including

the fact that he was working a double shift on the day of the event and was preoccupied with an emotional problem in his family. He went on annual leave a short time later still assuming the envelope containing the confidential communications had been thrown away. He also points out that since the article was published on the private blog the next day (18 May 2017), his subsequent reporting of the loss would not have been able to prevent it from being published. Moreover, the contested decision fails to acknowledge that upon the Applicant's return from leave and being informed of what had occurred, he was truthful and apologetic for his lapse.

18. In the Tribunal's view, the USG/DMSPC has demonstrated that the Applicant failed to uphold the highest standard of integrity and competence as required under staff regulation 1.2(b) by not immediately reporting the loss of the confidential United Nations information. The Applicant had ample opportunity to report the loss including when he first became aware of it, after it was published online, or before he went on leave. As the Dispute Tribunal noted in the earlier case, "[w]hile the Tribunal cannot speculate in what would have occurred had he done so, the reporting would, in any event, have provided the Administration with an opportunity to manage and prepare for any adversarial repercussions" (*Kennedy* UNDT/2020/209, para. 48).

19. Accordingly, the Tribunal finds that the USG/DMSPC properly exercised her discretion by concluding that the Applicant violated staff regulation 1.2(b) through his failure to make a full and timely disclosure in connection with the misconduct. In addition, the Tribunal finds that the USG/DMSPC has shown that the Applicant failed to follow the normal operational procedures for such an incident, which would have involved immediately reporting the loss of the confidential information to his supervisors.

*"Whether the staff member's misconduct was the result of a rash action or temporary lapse of judgment"*

20. The USG/DMSPC asserts that the Applicant's actions did not result from a mere lapse of judgment considering that on previous occasions, he had forwarded to unauthorized persons emails containing confidential information. Further, if the



Applicant honestly believed that his act resulted from a mere lapse of judgment, then he should have immediately reported the loss to his supervisors who could have taken steps to recover the lost email correspondence. However, this was not the case and the Applicant failed to report the loss even after he had learnt that a private online blog had published the confidential United Nations communications.

21. The Applicant notes that it has never been disputed that his action was inadvertent and unintentional, or that his entire record of service before and after the incident has been exemplary. He also notes that the criticism of previously communicating information in his role as a Staff Union representative is irrelevant and inappropriate, and that this was never part of the charges against him.

22. The Tribunal agrees with the Applicant that the fact that on previous occasions, according to the USG/DMSPC, he had forwarded emails containing confidential information to unauthorized persons should not be taken into consideration. However, it is of the view that if the loss of confidential United Nations communications had been merely the result of a temporary lapse of judgment, the Applicant would have reported the loss as soon as he became aware of it in order that some form of action could be taken. He had another opportunity to report the loss after he learnt that the confidential communications had been the subject of an article published on a private blog, but he again failed to report it.

23. Therefore, the Tribunal finds that the USG/DMSPC was justified in concluding that the Applicant's misconduct was not just a rash action or a temporary lapse of judgment.

*“Whether the misconduct was minor or technical, or substantive or severe, or involves a minor misstep or honest mistake or is the result of a lack of expertise or experience; whether the conduct is contrary to the express or implied duties and obligations of the staff member”*

24. According to the USG/DMSPC, the Applicant's conduct does not involve a minor misstep, nor does it result from lack of expertise or experience. At the time of the misconduct, the Applicant had worked as a Security Officer with the Organization for more than 20 years. Hence, he was, or was supposed to be, well

aware of his obligation as a staff member to protect the property and assets of the Organization, including resources such as the email correspondence that he printed and lost. The Applicant knew, or was supposed to know, that as a staff member performing safety and security-related functions, he was obliged to ensure the safety and security of the Organization, and to prevent the misuse of its property and assets. However, the Applicant acted contrary to his obligations and what was expected of him.

25. The Applicant points out that the lapse of judgment occurred not as part of his official functions as a security officer, but rather in his attempt to carry out protected activities as a staff representative, since the misplaced documentation was relevant to issues that had been raised by the staff associations previously. He argues that his role in the Staff Union, rather than being an aggravating factor, should have served to mitigate the penalty; and cautions that the Administration's actions could have a "chilling effect on staff representation as a whole". The Applicant also maintains that the contested decision strikes at the heart of the protections afforded to staff representatives in performing their duties by failing to take into account that this occurred in the course of carrying out staff representational activities protected under staff rule 8.1(e) and enshrined in the Standard of Conduct of the International Civil Service.

26. The Tribunal considers that the Applicant's arguments regarding his role as a staff representative are not relevant to the issue at hand. The fact that he had "printed out an email trail of communications emanating from his role as Vice-President of the Staff Union with the intention of delivering them to the newly elected Union Leadership" was never considered as misconduct in this case. The misconduct only concerns his subsequent loss of these printed email communications and his failure to report the loss. Nothing in the record shows that the USG/DMSPC's decision constituted an "unwarranted interference" in the administration of the staff unions or associations. Rather, the justification for the sanction was based on the Applicant's length of service with the Organization and the breadth of his experience and expertise.

27. Accordingly, the Tribunal finds that the USG/DMSPC has presented adequate reasoning to support the conclusion that the misconduct was not the result of a lack of expertise or experience and that the conduct in question was contrary to the express or implied duties and obligations of the staff member.

*“Whether the conduct involves a single act or numerous acts and/or a pattern of misconduct; whether the conduct involves multiple violations, either related or unrelated to each other”*

28. The USG/DMSPC maintains that contrary to the Applicant’s assertions, his actions did not consist of a “single inadvertent act of misplacing an envelope” or “a single oversight with unforeseen consequences”. Rather, the Applicant committed at least two acts, namely, losing documents containing confidential United Nations information, and failing to report the loss of the documents, leading to multiple violations of the staff regulations and ST/SGB/2004/15 (Use of information and communication technology resources and data), and this constituted “compound misconduct”. Moreover, in determining the appropriate sanction, the USG/DMSPC considered the past practice of the Organization in matters of comparable misconduct, and she noted that in a number of cases involving the intentional misuse of the property and assets of the Organization, including confidential information, the penalty imposed was either dismissal or separation. Meanwhile, cases involving a violation of staff regulations and rules through gross negligence, or where the staff member acted in a grossly negligent manner, have also attracted the disciplinary measure of dismissal, separation or demotion.

29. The Applicant submits that the USG/DMSPC’s attempt to rely on past practice is unsuccessful as the cases cited mostly involved the intentional misuse of United Nations assets or some fraudulent purpose and are not comparable to this case. He notes that “there was no fraud involved and no prior warning or instruction ignored” and that the reference to “compound misconduct” is misplaced as the USG/DMSPC merely repeats the same allegations arising out of this incident, which is a single event. He adds that there are no comparable cases wherein such a severe sanction has been imposed for an isolated lapse of judgment.

30. The Tribunal notes that the contested decision includes a review of at least eight cases of misconduct resulting in disciplinary measures. While the Applicant is right to state that most of the cases reviewed involved the intentional misuse of the Organization's assets or some fraudulent purpose and are, therefore, not comparable to his situation, the truth is that each case turns on its own individual circumstances and no two cases are identical. In addition, in the reviewed cases where fraud was involved or where instructions were ignored, the staff members concerned were sanctioned much more severely than the Applicant, including by dismissal or separation from service, with compensation *in lieu* of notice and without termination indemnity. Thus, the Tribunal is satisfied that, by only imposing the disciplinary measures of written censure with loss of four steps in grade, the USG/DMSPC took into consideration the more benign nature of the misconduct committed by the Applicant compared to those committed in the cases reviewed (see, for instance, *Specker* 2022-UNAT-1298, para. 28).

31. As for the use of the term "compound misconduct", it is justified in view of the fact that the Applicant not only lost confidential United Nations information as a result of his gross negligence in handling the Organization's resources, but he also failed to report the loss of confidential information. Therefore, his case cannot be compared with any case involving "an isolated lapse of judgment". Moreover, since both parties acknowledge that there were no previous cases exactly like the present one, the only option available to the USG/DMSPC was to refer to cases which had some similarity, without being identical, and adapt the sanction to the specific situation of the case.

32. Accordingly, the Tribunal finds that the USG/DMSPC has provided sufficient reasoning to support the conclusion that the Applicant's misconduct was not a single act but involved multiple violations.

*"Whether there was harm or damage to the Organization, employer, colleagues and other staff members, and clients and the public, which can range from none to significant; whether a number of persons were harmed"*

33. It is the USG/DMSPC's position that the Applicant's conduct exposed the Organization to a potential reputational risk, which he acknowledged. In addition, as noted previously by both the Dispute Tribunal and the Appeals Tribunal, due to the leak of the confidential information resulting from the misconduct, the Applicant put in jeopardy certain United Nations personnel mentioned in the communications.

34. According to the Applicant, the USG/DMSPC has not shown "any serious consequence to the Organization or to any persons arising from the publication of the documents" since they dealt with a matter that was no longer active. In addition, the USG/DMSPC has not demonstrated that the criticism of a senior United Nations official contained in those documents was untruthful or unwarranted.

35. The Tribunal notes that not only did the Applicant's actions have the potential to place certain United Nations personnel at risk, but the publication of the mishandled communications on a private online blog on 18 May 2017 also represented a significant danger. Such unauthorized publication of confidential United Nations communications, including communications with Member States, showing certain security vulnerabilities clearly exposed the Organization to a potential reputational risk. It could also lead to a loss of trust and result in a future reluctance by the Member States to share sensitive information with the Organization.

36. The Tribunal therefore finds that there is sufficient reasoning in the contested decision to sustain the USG/DMSPC's conclusion that the Applicant's misconduct exposed the Organization to potential reputational risk.

*"Whether the staff member has a history of disciplinary violations or other misconduct and sanctions; whether the misconduct in question is the first violation or part of a history or pattern of violations; whether the staff member has a record of prior violation"*

37. The USG/DMSPC concedes that this is the first violation the Applicant has committed.

38. The Applicant submits that his entire record of service before and after the incident has been exemplary, but that this was not factored into the penalty imposed on him. He asserts that no new letter of censure has been issued and that the loss of four steps in grade has not been explained or justified. He also argues that given his “long and exemplary record of service and the severity of the penalty imposed, the conclusion of retaliatory intent cannot be avoided”.

39. The Tribunal is satisfied that in determining the appropriate sanction for the misconduct, the USG/DMSPC took into consideration the Applicant’s long history of service with the United Nations, his expression of sincere remorse and the fact that he had no prior violation. The Tribunal is also not persuaded by the Applicant’s claim that there is a “retaliatory intent” behind the contested decision.

*“Whether there are mitigating factors present in the staff member’s employment history; whether the staff member has committed to taking steps to ensure there will be no repetition or continuation of the misconduct”*

40. The USG/DMSPC notes that the Applicant had more than 20 years of service with the Organization at the time the disciplinary measure was imposed, and that his supervisors had praised his work, as reflected in his performance evaluation documents. She takes into account the Applicant’s service with the Staff Union, his expression of sincere remorse, his explanation of his personal circumstances at the time of the incident, and the fact that his family depends on him financially. However, she also notes that the Applicant’s long service establishes, among other things, his awareness and understanding of the staff regulations and rules and other administrative issuances of the Organization, as well as his ability to meet what was expected of him as a staff member exercising safety and security-related functions, and his knowledge of the consequences and implications of his actions. As such, his long service does not release him from liability for his misconduct.

41. The Applicant maintains that his entire record of service before and after the incident has been exemplary and that although the USG/DMSPC's assertion that demotion should have been imposed is entirely unsupported, it would nevertheless have involved a lesser financial penalty than the harsher loss of four steps being imposed on him. He also argues that the decision to maintain but not to extend his ineligibility for promotion has no practical effect other than to maintain the original penalty which, in his view, "ought to have been rescinded".

42. The Tribunal finds that in making the contested decision, the USG/DMSPC has made a good-faith effort to take relevant factors into consideration, to fully explain her reasoning, and to ensure that the disciplinary measure imposed on the Applicant is proportional to the misconduct.

43. The USG/DMSPC deemed that the Applicant's actions exposed the Organization to potential reputational risk and put in jeopardy certain United Nations personnel mentioned in the confidential communications. In addition, the USG/DMSPC considered that the Applicant's experience serving as a Vice-President of the Staff Union could be taken into account in determining the disciplinary measure due to his access to privileged and confidential information.

44. In the view of the USG/DMSPC, given the severity of the misconduct, the commensurate sanction to be imposed would have been a demotion. However, she took into account the Applicant's more than 20 years of service and his expression of sincere remorse. Accordingly, she found that the disciplinary measures of written censure with loss of four steps in grade and deferment, for two years, of eligibility for consideration for promotion that had been previously imposed on the Applicant, in accordance with staff rules 10.2(a)(i), (ii) and (vi), would still have been proportionate in this case. However, considering that more than two years have elapsed since the time the Applicant was initially sanctioned for his misconduct, the USG/DMSPC decided not to reimpose the disciplinary measure of deferment, for two years, of eligibility for consideration for promotion.

45. Additionally, the Tribunal notes that the Applicant appears not to have suffered any excessively severe professional consequences as a result of the disciplinary measures imposed on him for the misconduct. On the contrary, he appears instead to have been assigned high-profile security responsibilities including protecting the Secretary-General's residence.

### **Conclusion**

46. Having reviewed all the factors used in determining the appropriate sanction for the Applicant's misconduct, the Tribunal finds that the USG/DMSPC has provided sufficient reasoning in the contested decision and has established a rational connection or relationship between the evidence and the objective of the disciplinary action.

47. As the Appeals Tribunal has stated, the Administration has discretion to impose the disciplinary measure that it considers adequate to the circumstances of a case and to the actions and behaviour of the staff member involved, and the Tribunal should not interfere with administrative discretion unless the sanction imposed appears to be "blatantly illegal, arbitrary, adopted beyond the limits stated by the respective norms, excessive, abusive, discriminatory or absurd in its severity" (see *Portillo Moya* 2015-UNAT-523, paras. 19-21; *Specker* 2022-UNAT-1298, para. 26; and also *Sall* 2018-UNAT-889, *Nyawa* 2020-UNAT-1024).

48. The Tribunal also notes that the contested decision imposes only a "written censure with loss of four steps in grade", which correspond to the two most lenient options in the list of disciplinary measures available under staff rule 10.2(a). Given the circumstances of the case, the Tribunal finds that these disciplinary measures are proportionate to the established misconduct and are not excessive.



49. In view of the foregoing, the application is dismissed.

*(Signed)*

Judge Joelle Adda

Dated this 19<sup>th</sup> day of July 2023

Entered in the Register on this 19<sup>th</sup> day of July 2023

*(Signed)*

Isaac Endeley, Registrar, New York