



Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

N'DAW

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Kalaycia Clarke, OSLA

Counsel for Respondent:

Yun Hwa Ko, UNFPA

André Luiz Pereira de Oliveira, UNFPA

Introduction

1. The Applicant is a former staff member of the United Nations Population Fund (“UNFPA”). On 2 June 2022, she filed an application contesting the decision to terminate her appointment for facts anterior to the appointment.
2. On 29 June 2022, the Respondent filed a reply urging the Tribunal to dismiss the application in its entirety.
3. On 19 July 2023, the case was assigned to the undersigned Judge.
4. The parties filed their respective closing statements on 22 January 2024.
5. For the reasons set out below, the Tribunal dismisses the application.

Facts

6. In late 2020, UNFPA advertised the position of Country Representative in the Republic of Guinea, at the P-5 level.
7. One of the questions on the application form read:

Have you ever been, whether as an employee, (international) civil servant, individual independent contractor or otherwise, subject to any disciplinary measure, contract termination, contract non-renewal or non-extension, or have you resigned while under investigation or during disciplinary proceedings, for or in connection with (allegations of) fraudulent, collusive, coercive, obstructive or unethical practices, misconduct, harassment, sexual harassment, abuse of authority, sexual exploitation or sexual abuse, retaliation, or poor or inadequate performance?
8. The Applicant submitted her application for the position on 8 December 2020. She answered “No” to the above question.
9. The Applicant passed a written assessment and on 29 January 2021, she was interviewed for the position.

10. UNFPA's Division of Human Resources conducted its standard vetting and reference-checking procedure for job candidates and did not discover anything unusual regarding the Applicant. It received three reference letters in favour of the Applicant, each of which stated no knowledge of misconduct. One of the letters was from the Applicant's employer at the time, Oxfam.

11. Sometime in March 2021, the Applicant was suspended by Oxfam while she was under investigation for allegations of misconduct brought against her.

12. By letter dated 16 April 2021, the Applicant was notified that she had been "selected for the position of UNFPA Representative, Guinea Country Office, at the P-5 level to be based in duty station Conakry". She was also informed that the fixed-term appointment would be for an initial period of one year and she was requested to complete certain administrative formalities.

13. On 21 April 2021, the Applicant confirmed her interest in the position and her availability to assume the functions by signing and returning the last page of the letter.

14. On 12 July 2021, UNFPA sent the Applicant a letter titled "Offer of Fixed Term Appointment", noting that the appointment was contingent on her receiving medical clearance as well as clearance from the host government. The letter also stated as follows:

This offer is based on the information provided by you in your Personal History Form (P-11) and other relevant documents provided in the course of the selection process. Please note that you are responsible for supplying any required relevant information both during the application process and on subsequent employment. Staff members are held personally accountable for the accuracy and completeness of the information they provide.

15. The Applicant signed and returned the letter on the same date, 12 July 2021, indicating her acceptance of the offer.

16. The Applicant resigned from Oxfam in August 2021 while the investigation against her was still ongoing.

17. On 28 August 2021, the Applicant assumed the post of UNFPA Country Representative in Guinea.

18. On 31 August 2021, UNFPA issued a formal “Letter of Appointment” to the Applicant. The Applicant indicated her acceptance of the appointment by signing and returning the letter on 1 September 2021.

19. On 15 September 2021, a reporter from *The New Humanitarian* (“TNH”), an online news publication, sent UNFPA an email seeking information about the Applicant’s selection for the position of Country Representative. TNH stated that it had previously written (on 18 June 2021) about the Applicant being investigated by Oxfam while she was working for them, and that the Oxfam investigation was still ongoing. TNH also noted that another news publication, *The Times*, had published an article (on 17 June 2021) regarding the Applicant and the allegations against her.

20. On 16 September 2021, UNFPA responded to TNH confirming the Organization’s policy of “zero tolerance for all forms of wrongdoing” and explaining UNFPA’s selection process and vetting procedures.

21. On 17 September 2021, TNH sent a further email with several follow-up questions based on UNFPA’s initial response and shared certain confidential information regarding the allegations against the Applicant.

22. On 24 September 2021, TNH published an article stating that Oxfam had suspended the Applicant and the investigation was still underway.

23. UNFPA conducted a Google search and found an article published by *The Times* dated as early as 19 April 2021 seemingly referencing the allegations against the Applicant at Oxfam, although it did not reveal any names.

24. On 7 October 2021, the Director of the Division of Human Resources (the “DDHR”) at UNFPA telephoned the Applicant to discuss the allegations that had come to light concerning the investigation carried out by her former employer, Oxfam. According to the DDHR’s contemporaneous notes of the meeting, the

Applicant acknowledged that she was aware of the ongoing investigation by Oxfam and stated that she had retained counsel to represent her in those proceedings. The Applicant also admitted that she was suspended by Oxfam sometime in March 2021 and remained suspended until she resigned from Oxfam in August 2021, just prior to joining UNFPA.

25. On 26 November 2021, the DDHR sent the Applicant an email confirming the details of their 7 October 2021 telephone conversation, asking for some information concerning the investigation by Oxfam, and requesting the Applicant to address three specific issues, namely: the date when she was placed under investigation; the date when she was placed on suspension pending the investigation; and whether she remained under investigation and on suspension by Oxfam as of 28 August 2021 when she took up her duties with UNFPA. The Applicant was also asked to share a copy of the communication notifying her of the decision to place her on suspension.

26. On 29 November 2021, the Applicant replied to the email and declined to provide details. She referred the DDHR to the retained counsel representing her in the Oxfam investigation, noting that “because the investigation [was] still ongoing, it [was] considered private and confidential”.

27. By letter dated 7 January 2022, the Applicant was notified that her appointment was terminated for facts anterior, namely: that she was the subject of serious allegations of improper conduct at Oxfam; that she was the subject of an investigation by Oxfam into those allegations; that she was suspended by Oxfam in connection with those allegations and the investigation; and that she had deliberately failed to disclose these circumstances to UNFPA at any time during the hiring process or before her date of appointment with UNFPA even though she had full knowledge of these circumstances.

28. On 2 March 2022, the Applicant requested management evaluation of the decision to terminate her appointment.

29. On 14 April 2022, UNFPA decided to uphold the termination decision.

Considerations

Applicable legal framework

30. The Tribunal notes that this case does not concern disciplinary action, but termination under staff regulation 9.3 and staff rule 9.6 regarding facts anterior to an appointment. These provisions, which set out the circumstances under which the Secretary-General may lawfully terminate the appointment of a staff member, explicitly contemplate the possibility of termination on the grounds of facts anterior to the appointment that call into question the suitability of a staff member under the standards established by the Charter of the United Nations.

31. The relevant provisions in effect at the time of the events read as follows (emphasis in the original):

Regulation 9.3

(a) The Secretary-General may, giving the reasons therefor, terminate the appointment of a staff member who holds a temporary, fixed-term or continuing appointment in accordance with the terms of his or her appointment or for any of the following reasons:

...

(v) If facts anterior to the appointment of the staff member and relevant to his or her suitability come to light that, if they had been known at the time of his or her appointment, should, under the standards established in the Charter, have precluded his or her appointment.

Rule 9.6

...

(c) The Secretary-General may, giving the reasons therefor, terminate the appointment of a staff member who holds a temporary, fixed-term or continuing appointment in accordance with the terms of the appointment or on any of the following grounds:

...

(v) If facts anterior to the appointment of the staff member and relevant to his or her suitability come to light that, if they had been known at the time of his or her appointment, should, under the standards established in the Charter of the United Nations, have precluded his or her appointment.

32. In the case at hand, the Tribunal is not concerned with the merits of the allegations against the Applicant during her tenure at Oxfam nor with the outcome of the Oxfam investigation. It is only concerned with the specific facts anterior as alleged in the termination letter of 7 January 2022, namely that the Applicant was being “investigated by Oxfam amid a flurry of allegations” while she served as Representative of Oxfam’s Democratic Republic of Congo (DRC) country office and that the Oxfam investigation was still underway.

33. The Tribunal also recalls the Dispute Tribunal’s jurisprudence in *Kamugisha* UNDT/2017/021 and *Songa Kilauri* UNDT/2021/107, where it was established that in cases involving termination for facts anterior, the following three cumulative conditions must be met for the Tribunal to satisfy itself that the Administration acted as a reasonable decision-maker: (a) whether the applicant was afforded due process; (b) whether there was sufficient evidence to support a factual finding that the applicant had engaged in the alleged conduct, and (c) whether these facts were directly relevant to an assessment of the applicant’s suitability under the standards established in the Charter of the United Nations and whether it was reasonable to conclude that, had these facts been known at the time of the appointment, they should have precluded the appointment.

34. However, while the Tribunal is not required, or expected, to carry out its own investigation or to make a finding on the guilt or innocence of the Applicant, it must examine whether the Administration applied the above-cited provisions on facts anterior in a procedurally correct manner, arriving at a decision that was not affected by improper considerations and was, in all the circumstances, a permissible option for a reasonable decision-maker to have reached (see *Kamugisha*, para. 30).

35. The Tribunal will therefore apply the above criteria in reviewing the facts and circumstances on which the contested decision was based.

Whether the Applicant was afforded due process

36. The Applicant argues that “an informal call without putting the staff member on notice of what it is about, cannot in any way be considered an adequate opportunity to comment on the information received”. She also submits that “an email asking three specific questions does not discharge UNFPA’s due process obligation either”, because the email “did not include any documents supporting any findings and its purpose was to request some information, rather than asking for [the Applicant’s] comments”. The Applicant further asserts that it was “justified, appropriate and reasonable” for her to refer the DDHR to the retained counsel representing her in the Oxfam case in order “to prevent any infringement of any confidentiality obligation that she might have owed to Oxfam”.

37. The Applicant further asserts that “UNFPA did not afford her the most basic due process guarantees before deciding to terminate her appointment”. She states that the termination decision appears to have been based on the notes of the telephone conversation she had with the DDHR as well as on “journalistic reports and correspondence” with *The New Humanitarian* newspaper. UNFPA did not conduct its own investigation and did not contact Oxfam to obtain reliable information related to the investigation. In so doing, “UNFPA not only displayed utter disregard for [the Applicant’s] due process rights as a staff member but also demonstrated a complete lack of interest in establishing the truth or not of the allegations”. UNFPA also denied the Applicant “the most basic procedural right”—the right to be heard. It neither examined the available information in a fair and balanced manner, nor provided the Applicant with an adequate opportunity to comment on the information received.

38. The Respondent submits that the Applicant was afforded due process in the sense that UNFPA granted her two opportunities to provide her version of events. The first was through the telephone call from the DDHR on 7 October 2021, when

the Applicant admitted that she was under investigation and was suspended by Oxfam. The second opportunity was via an email from the DDHR dated 26 November 2021, which referenced *The Times* article of June 2021 indicating that the Applicant was under investigation. The Applicant failed to take advantage of these opportunities to present any relevant exculpatory evidence but instead referred the DHR to her lawyer.

39. The Respondent also submits that the contested decision was lawful because UNFPA acted in conformity with the provisions of the statutory framework allowing the Secretary-General to terminate the appointment of a staff member if facts anterior to the appointment and relevant to the staff member's suitability come to light which, if they had been known at the time of the appointment, should have precluded the appointment. UNFPA applied the standard established by the Dispute Tribunal for the review of cases involving termination on grounds of facts anterior to the appointment.

40. The Tribunal recalls that under the standard established by the Dispute Tribunal, the Administration is required to grant a staff member the opportunity to respond to any facts relied upon to act against him or her (see *Songa Kilauri*, para. 30). The Tribunal also recalls the jurisprudence of the Appeals Tribunal holding that before taking action against a staff member, the Administration is required to respect his or her right to due process, fairness and transparency by adequately apprising the staff member of any allegations against him or her and affording him or her a reasonable opportunity to make representations before the action is taken (see, for instance, *Michaud* 2017-UNAT-761, para. 56).

41. The evidence before the Tribunal shows that throughout the recruitment and onboarding process for the post of Country Representative in Guinea, UNFPA was unaware of the allegations against the Applicant, the suspension or the investigation being conducted by Oxfam. It was only on 15 September 2021, when a TNH reporter sent an email seeking information about the Applicant's selection for the post, that UNFPA became aware of the allegations, the suspension and the investigation. Immediately thereafter, UNFPA took two courses of action. First, the

DDHR telephoned the Applicant on 7 October 2021 to discuss the allegations, the suspension and the investigation, and the DDHR made contemporaneous notes of the discussion. Second, on 26 November 2021, the DDHR sent the Applicant an email seeking three specific pieces of information concerning the Oxfam investigation, namely: the date when the Applicant was placed under investigation; the date when she was placed on suspension; and whether she remained under investigation and on suspension by Oxfam as of 28 August 2021 when she took up her duties with UNFPA. The Applicant replied to the email three days later, on 29 November 2021, declining to provide details and instead referring the DDHR to the retained counsel representing her in the Oxfam case.

42. The Tribunal considers that UNFPA should have been more forthright and direct in its request for information from the Applicant regarding the Oxfam allegations, suspension and investigation. UNFPA should have formally put the Applicant on notice that the alleged conduct could lead to the termination of her appointment, and it should have warned her of the consequences of failing to provide the information requested in the DDHR's email of 26 November 2021.

43. On balance, however, the Tribunal finds that this is a case where the “no difference” principle is applicable. As articulated in the jurisprudence of the Appeals Tribunal, a “lack or deficiency in due process will be no bar to a fair or reasonable administrative decision or disciplinary action should it appear at a later stage that fuller or better due process would have made no difference” (*Michaud* 2017-UNAT-761, para. 60.) Additionally, the Appeals Tribunal has held that “the due process rights of a staff member are complied with as long as s/he has a meaningful opportunity to mount a defense and to question the veracity of the statements against him/her” (*Millan* 2023-UNAT-1330, para. 86. See also, generally, *Kallon* 2017-UNAT-742).

44. In the present case, the Applicant was given sufficient notice that UNFPA had become aware of the allegations against her as well as her suspension by Oxfam and the ongoing investigation. The DDHR's telephone call and email provided the Applicant with an adequate opportunity to comment on the Oxfam case and she

could have done so by addressing the three specific issues asked of her. It is clear from the context that the Applicant was being instructed to provide relevant information on an important matter, but she declined the opportunity to comment. Rather than the Applicant requiring the DDHR to contact her retained counsel, it was incumbent on her to instruct her counsel to provide the relevant information to UNFPA “concerning facts anterior to [her] appointment and relevant to [her] suitability or concerning facts relevant to [her] integrity, conduct and service as a staff member”, as required under staff rule 1.5(e). The Tribunal therefore finds that the breach of integrity by the Applicant was so serious that any breach of her due process rights should not lead to the rescission of the contested decision (see *Millan*, para. 86).

45. Accordingly, the Tribunal concludes that the Applicant was afforded due process in the present case.

Whether there was sufficient evidence to support a factual finding that the Applicant had engaged in the alleged conduct

46. The Applicant submits that in light of “the extreme seriousness of the consequences of terminating an appointment for facts anterior, which are comparable to separation after a disciplinary process”, the applicable standard of review should be by “clear and convincing evidence”. She further submits that the termination decision “was made upon shockingly flimsy and unreliable evidence”, including the DDHR’s notes from the telephone conversation which “lack all probative value”, “are not a verbatim record” and “were not shared” with the Applicant. Similarly, “journalist coverage or the alleged correspondence with [TNH]” does not meet the clear and convincing evidence standard. According to the Applicant, “UNFPA should either have conducted its own investigation into the allegations or awaited the outcome of Oxfam’s investigation”. She also asserts that it has not been established that she deliberately failed to disclose information related to her Oxfam employment during the UNFPA hiring process.

47. The Applicant also maintains that there was insufficient evidence to support a finding that she had engaged in the conduct alleged by Oxfam. Therefore, according to her, “the facts have not been established to the requisite standard of clear and convincing evidence, or even preponderance of the evidence”.

48. The Respondent notes that the Applicant does not dispute the facts anterior as presented in this case and the Applicant only appears to argue that she was not required to disclose these facts. The Respondent submits that the Applicant, like all staff members, is required to abide by the highest standards of efficiency, competence and integrity under art. 101.3 of the Charter of the United Nations, and this includes honesty and truthfulness in all matters affecting her work and status. The Applicant was also required to provide such information under staff rules 1.5(b) and 1.5(e) as applicable at the time.

49. The Respondent also submits that the contested decision was based on sufficient evidence. The Applicant does not dispute that she had been under investigation and suspended by Oxfam when she accepted the offer of a position with UNFPA. It is also undisputed that the Applicant did not disclose to UNFPA the fact that she was under investigation and had been suspended by Oxfam. “Based on the information obtained from the press and the interactions with the Applicant”, UNFPA was able to gather sufficient evidence to support the contested decision. However, the facts anterior “did not relate to the merits of the allegations against the Applicant”.

50. The Tribunal finds that the Applicant misapprehends the nature of the issues under consideration in this case. The question before the Tribunal is not whether the allegations of improper conduct brought against the Applicant at Oxfam were founded, nor whether her suspension by Oxfam was warranted, nor indeed whatever the outcome of the Oxfam investigation might have been. Therefore, there is no need for the Tribunal to conduct a separate investigation into the Oxfam allegations. The real question is whether the circumstances described in the termination letter of 7 January 2022 existed during the hiring process and prior to the Applicant’s appointment with UNFPA.

51. As noted earlier, the Tribunal is not concerned with the merits of the allegations against the Applicant during her tenure at Oxfam nor with the outcome of the Oxfam investigation. The specific issues under consideration in this case, as stated in the termination letter dated 7 January 2022, are: that the Applicant was the subject of serious allegations of improper conduct at Oxfam; that she was the subject of an investigation by Oxfam into those allegations; that she was suspended by Oxfam in connection with those allegations and the investigation; and that she deliberately failed to disclose these circumstances to UNFPA at any time during the hiring process or before her date of appointment as UNFPA Country Representative in Guinea.

52. From the parties' submissions on the record in this case, it is undisputed that the Applicant was the subject of serious allegations of improper conduct at Oxfam; that she was the subject of an investigation by Oxfam into those allegations; that she was suspended by Oxfam in connection with those allegations and the investigation; and that she failed to disclose these circumstances to UNFPA at any time during the hiring process or before her date of appointment as UNFPA Country Representative in Guinea.

53. Accordingly, the Tribunal finds that there was sufficient evidence, also up to the standard of clear and convincing evidence, to support a factual finding that the Applicant had failed to comply with her obligation, under staff rule 1.5(e) "to supply information concerning facts anterior to [her] appointment", namely that she was the subject of serious allegations of improper conduct at Oxfam; that she was the subject of an investigation by Oxfam into those allegations; and that she was suspended by Oxfam in connection with those allegations and the investigation".

54. Moreover, as there is no genuine dispute regarding the facts in this case, the Tribunal finds that it is not necessary to hold a hearing as requested by the Applicant.

Whether these facts were directly relevant to an assessment of the Applicant's suitability and whether they should have precluded the appointment

55. The Applicant submits that “the alleged failure to disclose should not have precluded employment” because, in her view, “she was under no obligation to disclose to UNFPA that she was under investigation by Oxfam”. She notes that under the Staff Regulations and Rules, there are certain types of information that staff members are required to “proactively disclose” to the Organization, but information about being under investigation is not among them. She also asserts that “it was improper to draw any adverse inference in this regard” because being the subject of allegations of improper conduct, being investigated or being suspended by a former employer “do not fall within any of the scenarios where a staff member has to proactively disclose this information to the Organization”. Besides, she argues, the allegations at Oxfam “could well have been unfounded or even vexatious or malicious”. Further, at no point during the hiring and onboarding process was she “required” to provide any information concerning facts anterior.

56. The Applicant further submits that since the facts as alleged were not directly relevant to her suitability for the post at UNFPA, they would not have precluded the appointment even if they had been known to UNFPA at the time. She states that it goes “against all principles of due process, fairness and presumption of innocence” to maintain that being the subject of allegations of improper conduct or being suspended should preclude employment. In her view, fundamental considerations of fairness and justice prevent UNFPA from concluding that suspension by another organization, without a final determination, is sufficient to preclude employment. She also declares that the current UNFPA application system does not ask applicants to state whether they are under investigation or have been suspended for potential misconduct.

57. The Respondent submits that, pursuant to staff rules 1.5(b) and (e), there is an ongoing obligation on the part of staff members of the United Nations to provide information concerning “any subsequent changes affecting their status under the Staff Regulations or Staff Rules”. For each staff member, this obligation also

applies to any “facts anterior to his or her appointment and relevant to his or her suitability or concerning facts relevant to his or her integrity, conduct and service as a staff member”. The Respondent further submits that if UNFPA had known, at the time of the Applicant’s recruitment, onboarding and appointment, that she was under investigation and had been suspended by Oxfam, it would not have proceeded with the appointment. That is because UNFPA “would not have had any reasonable assurance” that the Applicant met the standard set in the Charter of the United Nations for the appointment of staff.

58. The Respondent adds that staff members are presumed to know the Staff Regulations and Rules, and the Applicant had an obligation to disclose facts anterior to her appointment and relevant to her suitability for the position. That obligation lasted “throughout the recruitment process and her tenure as a UNFPA staff member”. Given the “reputational risk inherent in any investigation”, it was incumbent on the Applicant, as a staff member occupying a senior position as Head of the Country Office in Guinea, to inform UNFPA of the investigation against her and the suspension by Oxfam.

59. The Tribunal recalls that pursuant to art. 101.3 of the Charter of the United Nations, which is the instrument at the top of the Organization’s internal legal system, integrity is one of the paramount considerations that should be taken into account in the recruitment of United Nations staff (see *Kamugisha*, para. 47). Further, pursuant to staff regulation 1.2(b), “[s]taff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status”. Moreover, the Appeals Tribunal has repeatedly affirmed that staff members are presumed to know the regulations and rules applicable to them and that ignorance of the law cannot be used as an excuse for not respecting such regulations and rules (see, for instance *Da Silvera* 2021-UNAT-1081, para. 40; *Abu Rabei* 2020-UNAT-1060, para. 27; and *Schepens* 2018-UNAT-830, para 33).

60. It is not clear from the record before the Tribunal whether the Applicant was already under investigation by Oxfam on 8 December 2020 when she submitted her application for the post of UNFPA Country Representative. Nonetheless, the question asked on the application form regarding whether the Applicant had ever been “subject to any disciplinary measure” or “resigned while under investigation” should have put her on notice that these are important considerations for the Organization. Additionally, once she became a staff member, she had an ongoing obligation, under the Charter as well as the Staff Regulations and Rules of the United Nations, to inform the Secretary-General of any changes in her status.

61. What is clear from the record is that sometime in March 2021, the Applicant was suspended by Oxfam while she was under investigation for allegations of misconduct brought against her. Thus, by 21 April 2021 when she confirmed her interest and availability for the UNFPA position, she was already aware of these circumstances. Moreover, the UNFPA offer letter dated 12 July 2021 clearly stated: “Please note that you are responsible for supplying any required relevant information both during the application process and on subsequent employment”. As such, by signing and returning the letter on the same date, the Applicant acknowledged that she was under an obligation to provide “any required relevant information” to UNFPA. Yet, when the DDHR required the Applicant to answer three specific questions regarding the Oxfam suspension and investigation, she declined to do so.

62. Without going into the merits of the allegations, suspension and investigation at Oxfam, it is worth noting that the circumstances were sufficiently serious to warrant the measures taken by Oxfam. The Tribunal therefore finds that it was reasonable to conclude that had UNFPA known of the circumstances surrounding the Applicant’s tenure at Oxfam during the hiring process or at the time of her appointment with UNFPA, these facts would have precluded the appointment. The position for which the Applicant applied requires representing UNFPA in forums with donors, government representatives, implementing partners and beneficiaries. Had UNFPA known of the facts anterior at the time of the

appointment, it could not have had any assurance that the Applicant met the standards of efficiency, competence and integrity required for a United Nations staff member, particularly one in such a critical and highly visible position as the Country Representative and Head of the Country Office. Given the reputational risk inherent in any investigation, it was incumbent on the Applicant as a staff member applying for or occupying such a senior position as Head of the Country Office, to notify UNFPA of the allegations, suspension and investigation. Considering the negative publicity that such a situation inevitably generates in the media, UNFPA would have been justified in questioning the Applicant's suitability as a staff member in general and for the position of Country Representative in particular.

63. Accordingly, the Tribunal finds that the facts anterior in this case were directly relevant to an assessment of the Applicant's suitability for the post of Country Representative and that they should have precluded her appointment to the post had they been known to UNFPA during the hiring process or prior to the appointment.

64. The Tribunal also finds that the Applicant's request to be awarded compensation for moral harm stands to be rejected because the Applicant has not adduced any valid evidence of harm. The psychological report submitted by the Applicant was created *ex post facto* as it was dated two days after she filed the present application and five months after she received the contested decision. In addition, it does not refer to any previous consultations with or treatment by a doctor. Accordingly, the request for compensation is rejected.

Judgment

65. The application is dismissed.

(Signed)

Judge Joelle Adda

Dated this 14th day of March 2024

Entered in the Register on this 14th day of March 2024

(Signed)

Isaac Endeley, Registrar, New York