



Before: Judge Eleanor Donaldson-Honeywell

Registry: Geneva

Registrar: Liliana López Bello

MEHTA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Pratyush Miglani

Counsel for Respondent:

Federica Midiri, UNDP

Introduction

1. The Applicant, a former staff member of the United Nations Development Programme (“UNDP”), filed an application contesting the decision not to confirm her probationary period and, as a result, to terminate her fixed-term appointment.
2. For the reasons explained below, the Tribunal grants the application.

Facts and procedural history

3. The Applicant joined UNDP on 1 September 2022 on a two-year fixed-term appointment as Regional Digital Hub Manager at the P-5 level with the Inclusive Digital Economies (“IDE”) Unit in the United Nations Capital Development Fund (“UNCDF”) in Fiji. The Applicant’s appointment was subject to a one-year probationary period in line with the UNDP Probation Upon Appointment Policy (“Probation Policy”).
4. Upon appointment, the Applicant requested authorization to telecommute from Delhi. Her request was approved, and a telecommuting agreement was put in place. However, no specific duration for the telecommuting arrangement was included in the agreement.
5. Between 4 and 11 October 2022, the Applicant and her direct supervisor, the Director of IDE, discussed her work plan. On 11 October 2022, the Applicant shared her final work plan with her direct supervisor. Part of the duties and tasks of her work plan were subsequently incorporated into her probationary performance appraisal report.
6. During October 2022, the Applicant was instructed to travel to Fiji to assume her duties in person. On 27 October 2022, the Applicant was informed in writing that her telecommuting arrangement was allowed for only 30 days and that she should report to her duty station immediately.
7. On 2 December 2022, the Director, IDE and the Deputy Director, IDE met with the Applicant to conduct her first probation review. By email of 6 December 2022, the Deputy Director, IDE shared with the Applicant a summary

of the performance discussion outlining some performance concerns, including the Applicant's failure to report to the duty station.

8. On 13 December 2022, the Director, IDE provided the Applicant with the probation form, including some performance concerns discussed during the 2 December 2022 meeting.

9. On 27 December 2022, the Applicant provided comments on the minutes of the 2 December 2022 meeting and the performance appraisal form.

10. On 27 January 2023, the Applicant reported for duty in Suva.

11. On 1 February, 23 March, 5 April and 18 May 2023, the Director, IDE and Deputy Director, IDE held follow-up meetings with the Applicant to provide support, discuss performance concerns and continuing improvements. Contemporary summaries of the meetings were prepared and shared with the Applicant.

12. On 5 July 2023, the Director, IDE met with the Applicant to conduct the Applicant's second probation review. During that discussion, the Director, IDE informed the Applicant that the overall rating for her probationary period was not satisfactory.

13. On 8 July 2023, the Director, IDE shared the minutes of the meeting and Probation Form with the Applicant and requested her comments within five days.

14. On 14 July 2023, the Applicant provided her comments on the second probation review.

15. On 6 August 2023, the Human Resources Specialist at UNCDF informed the Applicant that her second-level supervisor, the Officer-in-Charge, UNCDF, had decided not to confirm her probationary period and that, as a result, and in line with the relevant policy, the Office of Human Resources would seek approval of terminating her fixed-term appointment effective 18 September 2023.

16. On 11 August 2023, the Applicant replied to the Human Resources Specialist at UNCDF with her comments.

17. By letter dated 28 August 2023, the Assistant Secretary-General, Assistant Administrator and Director Bureau for Management Services informed the Applicant of the decision to terminate her fixed-term appointment on 18 September 2023.

18. On 19 September 2023, the Applicant separated from UNDP following the termination of her fixed-term appointment.

19. On 6 September 2023, the Applicant requested management evaluation of the decision not to confirm her probationary period and to terminate her fixed-term appointment.

20. By letter dated 14 October 2023, the Applicant was informed about the outcome of her request for management evaluation. The contested decision was upheld.

21. On 13 January 2024, the Applicant filed the present application contesting the decision indicated in para. 1 above.

22. On 15 February 2024, the Respondent filed his reply.

23. On 20 February 2024, the Applicant filed a motion for production of evidence.

24. By Order No. 31 (GVA/2024) of 12 April 2024, the Tribunal instructed the Respondent to file his comments on the Applicant's motion for disclosure of evidence by 19 April 2024. It also encouraged the parties to explore amicable settlement of the matter and revert to the Tribunal in this respect by 17 May 2024.

25. On 17 April 2024, the Respondent filed his comments on the Applicant's motion.

26. On 8 May 2024, the Respondent informed the Tribunal that the parties explored the possibility of a settlement but the matter could not be resolved amicably.

27. On 13 May 2024, the Applicant filed her rejoinder.

28. By Order No. 113 (GVA/2024) of 19 September 2024, the Tribunal, *inter alia*, granted the Applicant's motion for production of evidence and order the Respondent to provide the Applicant access to her archived United Nations Capital Development Fund ("UNCDF") emails covering the period from 1 September 2022 to 31 July 2023. The Respondent was also granted leave to file his comments on the additional evidence from the Applicant.

29. On 1 November 2024, the Applicant submitted additional evidence.

30. On 13 November 2024, the Respondent filed his comments on the additional evidence filed by the Applicant.

31. By Order No. 138 (GVA/2024) of 19 November 2024, the Tribunal ordered the parties to file closing submissions, which they did on 4 December 2024.

Consideration

Receivability

32. In her application, the Applicant alleges that she was required to work during July and August 2022, before the beginning of her appointment, on the assurances that she would be compensated for the said period. However, she did not receive such compensation.

33. In this respect, the Respondent argues that the Applicant's claims related to her recruitment with UNDP are not receivable *ratione materiae*.

34. Article 8.1(c) of the Tribunal's Statute provides that an application shall be receivable if an applicant "has previously submitted the contested administrative decision for management evaluation".

35. Furthermore, staff rule 11.2(c) indicates that a request for management evaluation shall not be receivable unless it is sent “within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested”.

36. First, the Tribunal notes that the Applicant was not a staff member in July and August 2022, when she claims that she was required to work as her appointment with UNDP only started on 1 September 2022. Therefore, the Applicant had no standing to contest such a decision at the time.

37. Second, even considering that the Applicant could have contested the decision not to compensate her for the previous work done after joining UNDP, she failed to do so within the mandatory time limits, as it seems from the record that she only raised this issue for the first time in her request for management evaluation of 6 September 2023. As a result, her request for management evaluation was found time-barred in this respect, and her application is similarly not receivable *ratione materiae* on this matter.

Merits

Applicable law

38. Staff regulation 9.3(a)(ii) provides that the Secretary-General may terminate the appointment of a staff member who holds a temporary, fixed-term or continuing appointment “if the services of the staff member prove unsatisfactory”.

39. The UNDP Probation Policy provides in relevant part the following (emphasis in the original):

4. All initial fixed term appointments of more than one year are subject to a probationary period of one year in the first year of appointment.

...

7. Confirmation of a staff member’s appointment is dependent upon satisfactory completion of their probationary period including such elements as (i) satisfactory performance of the duties and responsibilities assigned to them; and (ii) satisfactory conduct and suitability for the International Civil Service. Unless the interests of

UNDP compel the staff member's separation before completion of the probationary period, the one-year probationary period includes a plan of work and two review periods to be reported upon. The following schedule should be observed closely:

a) **Work plan (within three weeks of entry on duty):** the first level supervisor discusses the job description with the staff member and provides them with a plan of work embracing the duties to be performed or objectives and tasks to be completed within the probationary period;

b) **First review period (no later than six months after entry on duty):** the first level supervisor completes a Probationary Performance Appraisal Report, and discusses it with the staff member, who may request that the staff member's observations be attached to the report. It is then recorded in the staff member's personal performance and development file via the on-line PMD tool, accessible to the staff member;

c) **Second review period (no later than ten months after entry on duty):** the first level supervisor completes the Probationary Performance Appraisal Report for the second review period. The second level supervisor decides whether to: a) confirm the appointment, b) extend the probationary period or c) not confirm the appointment. The report is again shown to and discussed with the staff member, who may request that the staff member's observations be attached to the report. The staff member's observations, if any, are included in the staff member's personal performance and development file.

...

Termination of appointment

12. If the second level supervisor considers that termination of the appointment is in UNDP's interest because the probationary period was not satisfactorily completed, the staff member must be notified in writing, no later than six weeks prior to the date the probationary period expires.

13. The staff member has five working days following receipt of the written notice in paragraph 13 in which to comment to the second level supervisor. A copy of the staff member's comments is sent to the Office of Human Resources, along with any supporting documentation.

14. After consideration of the staff member's reply or, failing such reply, at the close of the five-day period, the second level supervisor submits a recommendation for termination of appointment to the

Director, Human Resources, who forwards it to the Assistant Administrator and Director Bureau for Management Services (BMS) for decision.

15. The Director, Human Resources advises the second level supervisor concerned and the staff member of the decision taken. Copies of the report, the notification and other relevant documents are included in the staff member's personnel file.

40. In *Sarwar* 2017-UNAT-757, para. 73, the Appeals Tribunal held that whenever the Secretary-General is called upon to decide if a valid and fair reason exists to terminate an appointment for poor performance, he should consider whether the staff member in fact failed to meet the performance standard and if so whether:

i) the staff member was aware, or could reasonably be expected to have been aware, of the required standard; ii) the staff member was given a fair opportunity to meet the required standard; and iii) termination of appointment is an appropriate action for not meeting the standard in the circumstances.

41. The Appeals Tribunal also clearly stated in *Said* 2015-UNAT-500, para. 40, that the UNDT must accord deference to the Administration's appraisal of the performance of staff members, and cannot review *de novo* a staff member's appraisal, or place itself in the role of the decision-maker and determine whether it would have renewed the contract, based on the performance appraisal. Performance standards generally fall within the prerogative of the Secretary-General and, unless the standards are manifestly unfair or irrational, the UNDT should not substitute its judgment for that of the Secretary-General. The primary task is to decide whether the preferred and imposed performance standard was not met and to assess whether an adequate evaluation was followed to determine if the staff member failed to meet the required standard. There must be a rational objective connection between the information available and the finding of unsatisfactory work performance (see *Sarwar* at para. 74).

42. The Appeals Tribunal has recalled that in examining the validity of the Administration's exercise of discretion, the Dispute Tribunal's scope of review is limited to determining whether the exercise of such discretion is legal, rational, reasonable and procedurally correct to avoid unfairness, unlawfulness or

arbitrariness (see *Abusondous* 2018-UNAT-812, para. 12). In this regard, the Dispute Tribunal can “consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse. But 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. Nor is it the role of the Tribunal to substitute its own decision for that of the Secretary-General” (see *Sanwidi* 2010-UNAT-084, para. 40).

43. Having reviewed the parties’ submissions, the Tribunal notes that the Applicant challenges not only the 28 August 2023 termination decision but also the response to her request for management evaluation of that decision. As the Tribunal has no jurisdiction to review the outcome of the management evaluation, the review in this Judgment concerns only the termination decision (*Staedtler* UNDT/2014/046, para. 29; *Hassanin* UNDT/2014/006, para. 37).

44. There are two main points made by the Applicant in contesting the lawfulness of the termination of her appointment. Firstly, she contends that the Probation Policy was not adhered to in the process that led to her termination. Secondly, the Applicant asserts that the unfavourable assessment about her performance, based on which she was terminated, was unfounded.

45. In view of the foregoing, in determining the lawfulness of the contested decision, the Tribunal will examine the following issues:

- a. Whether the Administration followed a proper procedure in making the contested decision; and
- b. Whether the Applicant’s performance was evaluated in a fair and objective manner.

Whether the Administration followed a proper procedure in making the contested decision

46. The Applicant joined UNDP on 1 September 2022. In accordance with the Probation Policy, her first-level supervisor (the Director of IDE), had a discussion with her about her job description. In his words, the meeting was to “catch up” on the Applicant’s “next activities and planned key results”. The discussion took place virtually on 5 October 2022. This was around two weeks after the three-week period for such discussions, but the delay is not significant. The Applicant’s duties were confirmed when she emailed her work plan and activity chart to her first-level supervisor on 11 October 2022.

47. The Applicant’s first-level supervisor arranged a performance appraisal meeting with the Applicant very promptly, which was held on 2 December 2022, three months before the six-month deadline. The meeting generated a Probationary Performance Appraisal Report as required by the Probation Policy within six months of the Applicant’s entry on duty.

48. Thereafter, the Applicant benefitted from a period of six months within which performance improvements could be achieved before the second performance appraisal meeting and report were completed on 5 July 2023. The second performance appraisal meeting was held a few days after the deadline of ten months from the Applicant’s entry on duty. However, the delay is not significant.

49. The Applicant had the opportunity to comment on the assessments made in the second appraisal. Her comments were submitted on 14 July 2023 in time to be considered by her second-level supervisor (the Officer-in-Charge, UNCDF), before he decided not to confirm her probationary period. The second-level supervisor indicated his non-confirmation decision in the Probationary Performance Appraisal Report on 19 July 2023. This met the Probation Policy requirement that the Applicant be so informed no later than six weeks prior to the date of the end of her probation period.

50. Thereafter, on 6 August 2023, the Applicant was notified that based on the non-confirmation recommendation, the Office of Human Resources would “initiate

the proceedings for the approval of the termination of [her] appointment effective 18 September 2023". The Applicant responded with her comments on 11 August 2023.

51. The entire process followed all required steps of the Probation Policy. Additionally, although not expressly required under the Probation Policy, the Applicant's first-level supervisor held follow-up discussions with the Applicant during the period between her first and second appraisal meetings. There are minutes on record of such meetings held on 1 February 2023, 23 March 2023, 5 April 2023 and 18 May 2023. The appraisal meetings and all follow-up discussions were also attended by the Deputy Director, IDE who, though not a signatory to the official appraisals, played an active role in the performance management process concerning the Applicant.

52. In light of the above, the Tribunal finds that the Applicant failed to establish her first contention that the proper procedure was not followed. The Tribunal will then proceed to address the Applicant's second argument.

Whether the Applicant's performance was evaluated in a fair and objective manner

53. The evidence on record shows that concerns about the Applicant's performance started with her not reporting to the duty station while telecommuting. However, the Tribunal finds that these concerns lack sound basis.

54. The Tribunal notes that it was the Deputy Director, IDE and not her first-level supervisor, the Director, IDE, who first wrote to the Applicant expressing concerns in an email dated 27 October 2022, which reads as follows (emphasis added):

As discussed yesterday and as what was communicated by [Director, IDE] last week, you must report to your duty station immediately. **The telecommuting arrangement is allowed for 30 days only.** Any extension must be authorized by senior leadership of UNCDF - beyond your immediate supervisor. Kindly also advise if in your discussion with [Director, IDE], you have finalized your PMD and uploaded to the system. Finally, please provide progress on the outlined activities so far as a progress report for the telecommuting period.

Please alert us as soon as you arrive Suva. This is urgent and must happen immediately.

55. Thereafter, seemingly offended by the Applicant expressing to her first-level supervisor, the Director of IDE, concerns about the tone of this email, the Deputy Director, IDE wrote again on 28 October 2022 indicating the following:

I got a call from [Director, IDE] voicing your concerns about the tune of my below message. I would like to express to you that it was not intended to exercise any insult, derogatory or offense towards you -if you felt so, then sincere apologies. It is purely meant to communicate rules and policies that we are all accountable for. Being absent from your duty station beyond the one-month telecommuting period is serious and beyond the authority of IDE. My message is really meant to make you feel aware of these rules and make you understand that we are by no way communicating something to you that contradicts the policies. I'm not sure if [Director, IDE] got your message in full yesterday as I don't recall I communicated during our meeting something different to what I wrote.

Please do not hesitate to reach out to me if you need any support and guidance. We are all here to help.

56. Prior to this email the only document on file that appears to address in any way the Applicant's non-reporting to the duty station is an email from her first-level supervisor, the Director, IDE, of 4 October 2022. This email was sent to the Applicant before a meeting with the Applicant to discuss her work plan, which was scheduled for the next day. This correspondence was sent over a month after the Applicant commenced duties. In said email, the Director, IDE mentioned a meeting to "catch up" and wrote "[c]ould you also let me know when you are planning to travel to Fiji, as we are coming to the end of the initial tele-commuting arrangement I believe?".

57. The Applicant's work plan prepared after 5 October 2022 and sent to the Director, IDE, did not include any action steps regarding attendance in person at the duty station. The closest inkling of such a requirement can only be found in objective five of the work plan, which indicates that all ten countries covered by programming in the Pacific Region, including Fiji, should be visited. There was no feedback from the Director, IDE, disagreeing with the work plan.

58. In addition to the foregoing, the telecommuting documentation concerning the Applicant did not include any end date. No document on record indicates, as contended by the Deputy Director, IDE, that the Applicant was ever informed that her period of telecommuting was to last for only 30 days. On the contrary, the Annex 2.1 “Telecommuting Agreement: Compact” provides in section 12 the following:

I understand that both sides may terminate the telecommuting agreement with one month notice or earlier by mutual agreement. I also understand that my supervisor, the Head of the Office/Division, Director, may terminate the agreement with immediate effect if in their judgment the conditions for telecommuting are no longer met.

59. Despite there being no indication about the duration of the Applicant’s telecommuting status, it became a significant focus of her performance appraisal from the first appraisal meeting. The minutes of that meeting held on 2 December 2022, prepared by the Deputy Director, IDE, included extensive points of dissatisfaction with the Applicant’s failure to report to the duty station. Problems related to the non-attendance were said to include team relationship and partnership issues. At this stage, only one month had elapsed since the Deputy Director’s email to the Applicant of 27 October 2022 indicating that she had to discontinue her telecommuting immediately.

60. Non-attendance at the duty station and its alleged related problems were not the only issues raised at the 2 December 2022 meeting. Other concerns included the Applicant’s non-essential travel and expenses. However, the first probationary performance appraisal report reflected concerns about non-reporting to the duty station, which were underscored as a performance shortcoming.

61. In response to the non-attendance concern, the Applicant explained that she started working even before being appointed on 1 September 2022. Then, in early September 2022, there were discussions about her being provided with training and induction in New York before joining the duty station. Moreover, she indicated that it was only in November 2022 that she was told to immediately report to the duty station without taking training. She also mentioned there were “uncertainties and blocking [her] mission payments and travel lump sum, [she] [was] unable to spend

[her] own money to book the air travel [and she had not] received a visa for [her] dependent mother, who would be joining [her] at the duty station”.

62. There was neither a response to the Applicant’s explanations nor any documentary proof made available to her to refute that she had never, prior to late October or early November 2022, been told her telecommuting was limited to 30 days. Additionally, the Applicant’s claims about the pre-approval of her travel on mission to Singapore and related entitlements were not denied.

63. However, the Deputy Director, IDE took further umbrage to the points made by the Applicant about induction at the New York UNDP Headquarters. She emailed the Applicant on 28 December 2022 indicating the following:

I’m somehow offended with your choice of associating my name in two places in your attachments:

...

2. [New York] training: I have to confirm that I didn’t promise any [New York] training from my side. During our call on 26th October, I have informed you that I don’t foresee you coming to [New York] during 2022 at all, even if you have discussed it with [Director, IDE]. As for training, I was hoping that you acknowledge my time spent with you for more than one hour on 26th October walking you through our office Controls (ICF) and the budget structure. I walked you through all management steps and process flow as well as who is authorized against what, I also demonstrated in that call the approvals for the travels. Attached is the matrix that I presented and walked you through it at length, and I promised you to share it once I clean a couple of lines there. On travels as well, there was a circulation from [JR] on Travels SOPs, in which your team alerted you to it.

I fully respect [M’s] message that we need to have a fresh start so I don’t expect here an exchange on these issues, but I expect staff members to appreciate my time and efforts in providing training and the necessary guidance, which must be quoted.

64. In discussions during the follow-up meetings until the second appraisal meeting, the Director and the Deputy Director of IDE continued to focus heavily on performance issues that they considered to have resulted from the Applicant’s late arrival at the duty station on 27 January 2023.

65. The second probationary performance appraisal focused far less extensively on the Applicant's initial non-reporting to the duty station. However, the point was still included as the final shortcoming before indicating that her performance was unsatisfactory. The second appraisal, however, addressed several other serious performance-related concerns, including:

- a. Failure to achieve set objectives and timeline for urgent tasks such as recruitment, submission of her own Integrated Work Plan [IWP] and analysis of the UNSDCF. However, the Review Form indicates that these objectives were set on 23 December 2022. That is after the Applicant submitted her work plan, after the first review, and also some months after the Probation Policy deadline for setting objectives;
- b. Lack of understanding that there should be prioritizing of internal management meetings over external stakeholder meetings;
- c. Deficiencies in capacity to plan as was evident from immediately asking staff to arrange introductory meetings upon her arrival to the Suva duty station and planning missions at short notice without solid justification; and
- d. Yelling at and ridiculing support staff.

66. Although there were other concerns about the Applicant's performance, the evidence shows that her telecommuting status was the unfounded initial issue raised with her performance. The Applicant contended in closing submissions that she was not informed initially that telecommuting was authorized for 30 days only. She had previously made this point in her application. The Respondent's reply did not deny this point.

67. Neither the reply nor the Respondent's closing submissions address whether and by what documented indication the telecommuting was from inception limited to 30 days. It is clear from the extent to which it was repeatedly raised in subsequent discussions that unfounded views regarding the initial duration of the Applicant's telecommuting status tainted the assessment of the Applicant's performance by the Director and Deputy Director, IDE.

68. It is apparent from the Deputy Director's inclusion in all meetings and her role in the exchange of correspondence that the Applicant's direct supervisor, the Director, IDE, relied on her in assessing the Applicant's performance. In fact, the role of the Deputy Director was so extensive that the Tribunal finds merit in the Applicant's submission that "despite her immediate First Level Supervisor being Mr. [HD], the Deputy Director, IDE who holds a P4 Level, has acted as the *defacto* supervisor of the Applicant who was hired at Level P5."

69. The tone and substance of some of the correspondence by the Deputy Director, IDE to the Applicant gives an appearance of bias against her that is more probable than not to have permeated the appraisal process as alleged by the Applicant.

70. For instance, in an email dated 20 June 2023 about arranging a mission, the Deputy Director of IDE informed the Applicant that "operations are not authorized to take any action until management approves the mission", that she was "annoyed with late submissions and tight timeline" and that "there was no justification". She advised her to "read the SOPs and learn how to work with the system". However, the Applicant pointed out that the terms of reference ("ToR") for the mission were shared three weeks in advance and that it was the Deputy Director who failed to approve the ToR timely.

71. In another email dated 1 June 2023 in relation to an Applicant's request for a template for the Integrated Workplan (IWP), the Deputy Director of IDE replied, "I'm a bit surprised with your earlier message that was sent yesterday about the IWP, we have requested you to prepare your own under objective 1 in the earlier message back in our 1st Feb meeting. Coming now at this stage to ask which template is literally defeating the purpose of annual planning". Nevertheless, the Applicant had only got feedback a few days earlier on the initial IWP shared in February 2023.

72. In an email dated 9 May 2023 in relation to an investigation conducted by the Office of Audit and Investigation ("OAI"), the Deputy Director, IDE instructed the Applicant to "drop any other commitment and prioritize responding to [OAI]".

73. Some of the other concerns raised in the appraisals may have merit. However, disaggregation of any valid concerns from the supervisors' biased perspective against the Applicant is not possible in all circumstances of this case.

74. In addition to the foregoing, the performance management process that led to the Applicant's termination was tainted by the fact that new objectives were introduced in December 2023 with timelines to be kept. This gave the Applicant a reduced period within which to achieve the objectives. Furthermore, in assessing whether the objectives were reached, the Respondent failed to consider facts in the Applicant's response that were objectively verifiable.

75. For instance, the issues on building the team and pending recruitments, the development of the learning plan for the team, the progress of the projects, the updates on the Pacific region, the updates on the Pacific Digital Economy Programme ("PDEP") and Blue Economy Programme, the preparation and submission of the IWP, the appropriateness of her submission of the analysis of the United Nations Sustainable Development Cooperation Framework ("UNSDCF"), the approval of ToRs and travel for missions, prioritization of work and assignments delegated to her, capacity to plan strategically including missions in the region, coordination of meetings, etc.

76. In all the circumstances, the Tribunal's conclusion is that the application succeeds in so far as it contests the termination decision.

Remedies

77. The Applicant has, however, failed to prove that she suffered emotional distress and harm to her professional reputation, as alleged. Accordingly, she is not entitled to moral damages under art.10.5(b) of the Tribunal's Statute.

78. The Applicant's award will be limited under art. 10.5(a) of the Tribunal's Statute to reinstatement or payment of compensation *in lieu* in the amount equivalent to her net base salary from the moment of her separation, that is, on 19 September 2023, to the expiry of her two-year fixed-term appointment on 31 August 2024.

Conclusion

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

- a. To rescind the decision to terminate the Applicant's fixed-term appointment;
- b. To set the financial compensation that the Respondent may elect to pay *in lieu* of implementing the rescission at the amount equivalent to the Applicant's net base salary from 19 September 2023 to 31 August 2024;
- c. The aforementioned compensation shall bear interest at the United States of America prime rate with effect from the date this Judgment becomes executable until payment of said compensation. An additional five per cent shall be applied to the United Nations prime rate 60 days from the date this Judgment becomes executable; and
- d. To deny all other claims.

(Signed)

Judge Eleanor Donaldson-Honeywell

Dated this 31st day of December 2024

Entered in the Register on this 31st day of December 2024

(Signed)

Liliana López Bello, Registrar, Geneva