



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2024/033

Judgment No.: UNDT/2025/031

Date: 30 May 2025

Original: English

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**Before:** Judge Francesco Buffa

**Registry:** Geneva

**Registrar:** Liliana Lopez Bello

SKURIC PRODANOVIC

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Robbie Leighton, OSLA

**Counsel for Respondent:**

Camila Nkwenti, UNOG, HRMS/LU

## **Introduction**

1. The Applicant, a Chief of Section, working with the United Nations Office for the Coordination of Humanitarian Affairs (“OCHA”) based in Geneva, filed an application contesting a decision to not grant her the continuing appointment.
2. For the reasons set forth below, the application is granted.

## **Factual background**

3. The Applicant first joined the Organization working with the United Nations Office for Project Services (“UNOPS”) in the West Bank/Occupied Palestinian Territory from January 2008 to November 2011.
4. Between November 2011 to December 2012, the Applicant served in United Nations Relief and Works Agency for Palestine Refugees (“UNRWA”). Thereafter, the Applicant took Sick Leave Without Pay.
5. Between 1 September 2013 to 8 April 2016, the Applicant worked with United Nations Population Fund (“UNFPA”) on secondment from UNRWA, based in New York.
6. On 9 April 2016, the Applicant was seconded from UNFPA on an initial appointment in the United Nations Secretariat to the United Nations Office for the Coordination of Humanitarian Affairs (“OCHA”) in Geneva. The Respondent indicates that for this position, the Applicant was exceptionally seconded and given a Fixed-Term Appointment (“FTA”) Limited, despite not being selected from a job opening.
7. On 7 July 2018, the Applicant officially transferred from UNFPA to OCHA.
8. On 28 April 2021, the Applicant’s contractual element changed to a regular FTA following the endorsement of the Central Review Board for the Job Opening No. 129905.

9. On 7 February 2023, the Office of Human Resources, Department of Management Strategy, Policy and Compliance (“OHR/DMSPC”) announced the launching of the Continuing Appointment Review Exercise for the review of the staff members potentially eligible as of 1 July 2016 to 1 July 2021.

10. Following the announcement, the Applicant applied and participated in the review exercise. At the conclusion of the review, the Applicant was allocated a total of 12 points. The Respondent states that the calculation was done as indicated in the table below.

<b>Requirement</b>	<b>Point allotment criteria in ST/SGB/2011/9</b>	<b>Applicant’s evaluation</b>	<b>Points allocated</b>
Performance rating of “Exceeds expectations” or its equivalent in any of the four most recent performance appraisal reports individually covering a one-year period	<ul style="list-style-type: none"> <li>• Exceeds expectations (or equivalent) • 7 points for each report (for at least a one-year period)</li> <li>• Frequently exceeds expectations (or equivalent) • 5 points for each report (for at least a one-year period)</li> </ul>	<p>The Applicant received the following ratings for the relevant periods as follows:</p> <ul style="list-style-type: none"> <li>- 2020-2021 – B- Successfully meets expectations</li> <li>- 2019-2020 – B- Successfully meets expectations</li> <li>- 2018-2019 – B- Successfully meets expectations</li> <li>- 2017-2018 – A- Exceeds expectations</li> </ul>	7 points
Continuous service for at least one year in a duty station with a hardship classification of A, B, C, D or E	2 points. The staff member must have continuous service for at least one year in a duty station with a hardship classification of A, B, C, D or E.3	The Applicant served in New York and Geneva, both H duty stations, since her Entry on duty. She was not allocated points for service	0 points

	Hardship classification of a duty station is confirmed with reference to the Consolidated List of Entitlements provided by the International Civil Service Commission at Mobility & Hardship   ICSC (un.org).	in a hardship duty station.	
Continuous service in non-family duty stations for at least one year	2 points Staff member may be allocated 2 points for service of at least one year (continuous) in a nonfamily duty station	The Applicant has not served in a family duty station	0 points
Geographical mobility for at least one year (continuous)	2 points per tour of duty	The Applicant has served in Humanitarian Affairs and no other job family; therefore, she was not awarded points for a functional move	0 points
Functional mobility, defined as the movement between job families. For the purpose of the point system, points shall be allocated per movement to a different job family, provided service in the new job family	2 points per tour of duty	The Applicant has served in Humanitarian Affairs and no other job family; therefore, she was not awarded points for a functional move	0 points

has been continuous for one year or more			
Proficiency in one official language of the United Nations other than one's mother tongue	2 points	The Applicant does not have proficiency in additional official language of the United Nations.	0 points
Each additional year of service beyond five years	1 point for each year	The Applicant's continuous service under the UN staff regulations and rules began in September 2013 with service in UNFPA. She has 2.84 additional years of service (after the 5 years of continuous service) as of the eligibility date of 1 July 2021.	2 points
Total points			12 points

11. On 2 February 2024, the Applicant received a notification from the OHR/DMSPC continuing appointments review team informing her that the Assistant Secretary-General for Human Resources decided not to grant her a continuing appointment (contested decision).

12. On 31 March 2024, the Applicant requested management evaluation of the contested decision.

13. On 9 May 2024, the Management Advice and Evaluation Section issued its decision and upheld the contested decision.

#### **Procedural background**

14. On 31 July 2024, the Applicant filed the present application.

15. The Respondent filed a reply on 22 August 2024.

16. The Applicant filed a rejoinder to the Respondent's reply on 19 November 2024.

17. By Order No. 52 (GVA/2025), the parties were directed to file their closing submissions, which they did on 28 May 2025.

### **Submissions**

#### *Applicant's submissions*

18. The Applicant's position is that she should have been granted the continuing appointment. In support of her case, she raises three grounds.

19. Firstly, the Applicant contends that the Administration conflated qualifying service for the eligibility criteria of five years continuous service with service recognized for purposes of allocating points.

20. Relying on sec. 2.2(b) of ST/SGB/2011/9 (Continuing appointments), the Applicant argues that her service with UNRWA and before should have counted towards her points allocation. That includes a significant period of service in excess of the required five years and service in duty stations that accrued a significantly greater points allocation. Therefore, the failure to consider the Applicant's service with UNRWA and UNOPS for purposes of points allocation vitiates the contested decision.

21. Secondly, the Applicant states that even if her service with UNRWA did not count toward points allocation, no rationale is provided for not granting points for service with UNOPS. She maintains that she has years of service with UNOPS which would contribute to service in hardship duty station, continuous service, functional and geographical mobility points. She thus posts that given that continuity of service is accepted no rationale has been provided as to why UNOPS service has not been counted towards both continuous service and points allocation. In her view, it is obvious that such service should have counted for both.

22. Thirdly, the Applicant submits that the position taken by the Administration runs contrary to the provisions of para. 12 of the Inter-Organisation Agreement (“IOA”) concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowances.

23. The decision that the Applicant’s service with UNRWA would not count towards points allocation, simply because UNRWA does not apply the staff regulations and rule, is in discord with the agreed rules governing the Applicant’s transfer between organizations. Further, the decision not to count the Applicant’s service with UNOPS for purposes of continuous service is similarly contrary to the IOA as such service should be treated “as if it had been made in the receiving organization at duty stations where the staff member actually serves.” Thus, the failure by the Administration to honour the provisions of the IOA render the decision unlawful.

24. As a remedy, the Applicant requests rescission of the contested decision, and that she be granted a continuing appointment based on her points allocation being calculated by reference to her service since joining the United Nations common system in 2008. Such calculation should apply her UNOPS service for purposes of meeting the requirement of five years’ continuous service and points allocation. Her UNRWA service should be applied for purposes of points allocation.

*The Respondent’s submissions*

25. The Respondent’s case is that the decision not to grant to Applicant a continuing appointment was lawful and justified. The Applicant met the requirements under sec. 2 of ST/SGB/2011/9 and was eligible for consideration for the granting of a continuing appointment. The Applicant was then allocated points according to the mechanism outlined in sections 4.3 and 4.4 of ST/SGB/2011/9. The Applicant was ranked with other staff members according to the number of points she accumulated and did not have sufficient points to be awarded a continuing appointment based on 2021-point allocation conducted to determine the top-ranking 171 staff members for the year 2021.

26. The Applicant's work experience in UNRWA from November 2011 to December 2012, through an interagency transfer agreement, was not considered as UNRWA is not an entity under the UN Staff Regulations and Rules. In addition, the Applicant's service in UNOPs from January 2008 to November 2011 was not taken into account because it was not considered as continuity as it was broken by the service with UNRWA.

27. The Respondent further argues that had these points been allocated to the Applicant, she would have had a total of 7 additional point to the 12 points she obtained, i.e., 2 points for continuous service in a hardship duty station and 2 points for continuous service in a non-family duty station and 3 points for the years of service. This would have brought her points to 19 points. With 19 points the Applicant would still fall below the minimum points required for the highest ranking candidates who were granted continuing appointments for 2021.

28. In view of the foregoing, the Respondent requests the Tribunal to dismiss the application as the contested decision was properly made.

### **Consideration**

#### *Applicable law*

29. The General Assembly Resolution (A/RES/65/247 Human Resources Management) sets out the eligibility criteria for staff members to be considered for a continuing appointment. Paragraph 53 provides:

*Further decides* that staff members must satisfy the following criteria in order to be eligible for consideration for the granting of continuing contracts:

(a) They must have completed a minimum of five years of continuing service under the Staff Regulations and Rules of the United Nations:

(i) Staff members of the United Nations Secretariat who have accrued at least five years of continuous service on fixed-term



appointments, including periods of service in an entity that applies the Staff Regulations and Rules of the United Nations.

30. Section 2.1 of ST/SGB/2011/9 provides:

In order to be eligible for consideration for the granting of a continuing appointment, staff members who have been selected for a position through a competitive process which includes a review by a Secretariat review body in accordance with staff rule 4.15, and are serving with the United Nations Secretariat under a fixed-term appointment, must satisfy the following criteria:

- (a) They must have completed five years of continuous service under fixed term appointment(s) under the Staff Regulations and Rules of the United Nations, notwithstanding the provisions of section 2.2 below.
- (b) They must have received a performance rating of at least “Meets expectations” or equivalent in the four most recent performance appraisal reports;
- (c) They must have at least seven years of service remaining before reaching the Organization’s mandatory age of separation;
- (d) They must not be locally recruited staff in the General Service or related categories (including National Professional Officers) serving in field missions, including peacekeeping missions and special political missions;
- (e) They must not be international or locally recruited staff serving in the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia;
- (f) They must not have been subject to any disciplinary measure during the five years prior to their consideration for the granting of the continuing appointment.

31. Section 2.2 (b) of the SGB states:

With respect to the requirement of five years of continuous service referenced in section 2.1 (a) above:

(b) Periods of service under fixed-term appointments in another entity governed by the Staff Regulations and Rules of the United Nations prior to joining the United Nations Secretariat shall be counted towards the qualifying service provided the service has been continuous. Periods of service within entities of the United Nations common system which are not governed by the Staff Regulations and Rules of the United Nations shall not be counted towards the eligibility criteria of five years of continuous service under fixed-term appointments. However, such service will be recognized when allocating points in accordance with the mechanism outlined in sections 4.3 and 4.4 below and the annex to the present bulletin, provided the service has been continuous.

33. ST/AI/2012/3, para. 2.17 provides as follows:

“Service in entities of the United Nations common system not governed by the Staff Regulations and Rules of the United Nations will not be counted towards qualifying service. However, service in those entities does count for the purpose of calculating points in accordance with the mechanisms outlined in section 3 of the present instruction, provided that such service has been continuous until the eligibility date”.

34. The position taken by the Administration runs contrary to the provisions of the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowances (“IOA”).

35. The IOA sets out the procedures and rules governing transfer and secondment of staff members in the UN common system. The agreement states:

In the case of a transferred or seconded staff member, service in the releasing organization will be counted for all purposes, including credit towards within - grade increments, as if it had been made in

the receiving organization at the duty stations where the staff member actually served.

36. While ST/SGB/2011/9 has legislated to state that service in organizations not applying the staff rules will not apply to requirements for five years' continuous service no such legislative hinderance exists to its consideration for purposes of point allocation for continuous appointment.

37. The decision that the Applicant's service with UNRWA would not count towards points allocation, simply because UNRWA does not apply the staff regulations and rule, is in discord with the agreed rules governing the Applicant's transfer between organizations.

38. The rules clearly define what acts will breach the continuity of service. It does not state that service with an organization not applying the staff rules will break the continuity of service.

39. Indeed, the rules state the opposite. The provisions quoted above state explicitly that service with an organization not applying the staff rules will count for points calculation if it is continuous. Thus, the rules clearly demonstrate that service with an organization not applying the staff rules does not break the continuity of service. It follows that service with such an organization cannot be a reason to find continuity has been broken as the Respondent tries to suggest.

40. The Tribunal notes in addition that the Applicant's service in UNOPs in the West Bank/Occupied Palestinian Territory from /January 2008 to November 2011 was not considered because it was not considered as continuity was broken by the service with UNRWA. Once the service in UNRWA is deemed to be relevant, also the service in UNOPs must be counted. The decision not to count the Applicant's service with UNOPS for purposes of continuous service is similarly contrary to the IOA as such service should be treated "as if it had been made in the receiving organization at duty stations where the staff member actually served."

41. The failure by the Administration to honor the provisions of the IOA renders the decision unlawful.

42. The Respondent objects that the Applicant accumulated 12 points, and that even counting the experience in UNRWA, she would have had a total additional seven point to the 12 points i.e., two points for continuous service in a hardship duty station and 2 points for continuous service in a non-family duty station and three points for the years of service. This would have brought her points to 19 points. With 19 points the Applicant would still fall below the minimum points required for determine the top-ranking 171 staff members who were granted continuing appointments for 2021.

43. In her rejoinder, the Applicant observes that the Respondent's calculation of points allocation that would have resulted from considering UNOPS and UNRWA experience is unsupported and inaccurate. The Applicant should have received three points for a tour of duty in a category C duty station and one point for tour of duty in a category B duty station; two points for each of two tours of duty in a non-family duty stations making four points in this category. She should have received an additional two points per tour of duty for geographical mobility making a total of four additional points in this category. The Applicant's functions in UNOPS and UNRWA were entirely different and she did not work as a Humanitarian Affairs Officer so she should have received four additional points for functional mobility recognizing two changes in functions. She should have received an additional seven points for years of service.

44. This makes a total of 23 points which were unlawfully not allocated to her total for consideration for continuing appointment. This would have taken the Applicant to a total of 35 points which would have resulted in grant of a continuing appointment since the cutoff point was 34 points.

45. The Tribunal solicited the parties to take explicit position of the calculation to be followed in the case and the parties did that in their final submissions.

46. Having in mind the calculation made by the parties, the Tribunal observes that following the Respondent's calculation, the Applicant's score was 12 points, based on one performance rating of "Exceeds expectations" (7 points), geographical

mobility from New York to Geneva (3 points), and 2.84 additional years of service beyond the five-year threshold (2 points).

47. In sum, the Organization did not attribute to the Applicant any points related to hardship duty stations and non-family duty stations, geographical mobility and functional mobility: this is a clear consequence of the failure to consider her period of work in UNOPS and UNRWA as service not breaking the continuity of service.

48. The Applicant stresses that on the hardship duty station criterion she has tours of duty exceeding one year in a category C duty station and a Category B duty station resulting from UNOPS and UNRWA service. This would provide an additional total of 4 points.

49. On the criterion of service in non-family duty stations the Applicant would receive an additional two points for a tour of duty in Ramallah.

50. On the criterion of geographical mobility, the Applicant has served in Ramallah, Jerusalem, New York and Geneva. The rule provides for “three points per tour of duty”. So, with two tours of duty, she should receive six points in this category instead of the three points awarded.

51. On the functional mobility criterion points are allocated as “two points per tour of duty”. The Applicant’s work in UNOPS, as Project Coordination Specialist, and UNRWA, as Head of Advisory Commission Secretariat, were entirely different from each other and from her current work. At UNFPA she adopted entirely different functions working as a Resource Mobilization Adviser before adopting entirely different functions as a Humanitarian Affairs Officer in OCHA. With three different tours of duty in entirely different functions the Applicant should receive four points under this criterion instead of the zero awarded in the exercise.

52. Judged appropriately, the Applicant’s continuous service was from January 2008 to the eligibility date of 1 July 2021. That is a period of 13 years. This is eight years more than the required five years resulting in a score of eight points rather than two.

53. The Tribunal finds that the correct calculation of the Applicant's points must consider the continuous service rendered in the different duty stations and the features of them.

54. Taking into account UNOPS and UNRWA service and accurately applying the rules on points provision as they appear in the promulgated rule provides an additional 22 points (to be added to the 12 acknowledged by the Administration), which leading to an overall score of 34 points. This reach the cut off (which was 34 according to the Parties) and means the Applicant's right to be awarded a continuing appointment.

#### *Remedies*

55. The Applicant requests rescission of the decision and that she should be granted a continuing appointment based on her points allocation being calculated by reference to her service since joining the United Nations Common System in 2008. Such calculation should apply her UNOPS service for purposes of meeting the requirement of five years' continuous service and points allocation. Her UNRWA service should be applied for purposes of points allocation.

56. The Tribunal allows the requested remedies, which are necessary to redress the Applicant position and do justice to her.

57. Given the above rescission of the contested decision, the Tribunal is bound, pursuant to art. 10.5(a) of its Statute, to set compensation that the Respondent may elect to pay as an alternative to the rescission ("compensation *in lieu*"). The amount of compensation in lieu must be done on a case-by-case basis.

58. In this case, the Tribunal considers it appropriate to set the amount of alternative compensation *in lieu* of awarding the continuing appointment to the Applicant at the equivalent of two years' net-base salary.

#### **Conclusion**

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

- a. The application is granted;

- b. The contested decision is rescinded, and the Respondent shall grant a continuing appointment to the Applicant;
- c. The Tribunal set the compensation *in lieu* under art. 10.5 of its Statute in the amount of two years of net-base salary at the Applicant's current grade and level;
- d. 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 compensations. An additional five per cent shall be applied to the United States prime rate 60 days from the date this Judgment becomes executable.

*(Signed)*

Judge Francesco Buffa

Dated this 30<sup>th</sup> day of May 2025

Entered in the Register on this 30<sup>th</sup> day of May 2025

*(Signed)*

Liliana LopezBello, Registrar, Geneva