



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2024/028  
Judgment No.: UNDT/2025/046  
Date: 16 July 2025  
Original: English

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**Before:** Judge Francesco Buffa

**Registry:** Geneva

**Registrar:** Liliana López Bello

SAMANDAROV

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Camila Nkwenti, UNOG, HRLU

## **Introduction**

1. The Applicant is an Associate Human Rights Officer, at the P-2 level, working at the Office of the United Nations High Commissioner for Human Rights (“OHCHR”), based in Geneva. He contests two decisions:

- a. OHCHR’s refusal to grant him sufficient time for his relocation from Geneva to Suva in Fiji; and
- b. Withdrawal of the offer of temporary appointment for the position of Human Rights Officer (TJO 219180).

## **Factual background**

2. The Applicant joined the Organization in June 2010.
3. On 29 September 2023, OHCHR advertised a Temporary Job Opening No. 219180 (“TJO”) for the position of Human Rights Officer at the P-3 level. The position was to be located in OHCHR’s Regional Office for the Pacific in Suva, Fiji. The job advert indicated that the position was temporarily available for 364 days and was subject to availability of funds.
4. The Applicant applied for the position on the same day it was advertised.
5. Following a desk review exercise by the hiring manager, four candidates were recommended for possible selection for the position. The Applicant was included as third recommended candidate.
6. The Respondent states that the first recommended candidate withdrew her application before being notified of her selection, while the second recommended candidate declined the offer upon notification of the selection.
7. On 14 December 2023, the Applicant went on annual leave through 26 January 2024, with an automatic out-of-office reply, stating partly “I am currently on leave and can reply to your email(s) only after my return to office”.

8. On 5 January 2024, via both his private and office emails, the Applicant was notified of his selection. By the same emails, the Applicant was requested to confirm his interest in the position and his availability to take up the position by 12 January 2024.

9. Having not heard from the Applicant, on 10 January 2024, the Administration sent the Applicant another email reminding him to confirm his interest and availability. On the same day, the hiring manager contacted the Applicant through his office email address, requesting a meeting to discuss the selection. The Respondent states that the Applicant did not respond to the email.

10. On 12 January 2024, via Inspira, the onboarding platform, the Applicant confirmed his interest and availability to take up the position. The Applicant further indicated 1 May 2024 as the earliest date by which he would be able to complete his formalities in Geneva and travel to Suva. The Applicant avers that in his response, he informed the Administration that “please prepare offer reflecting my last day in Geneva post as 30 April 2024 and my first day in Suva post (including my travel time) as 1 May 2024”.

11. On 18 January 2024, the Human Resources Officer, Human Resources Management Section, (“HRO/HRMS”), OHCHR, wrote to the Applicant’s supervisor requesting the release of the Applicant. On the same day, the Applicant’s supervisor congratulated the Applicant for his selection for the TJO and requested to discuss the release date with him. The Applicant did not respond.

12. In the period from 18 to 25 January 2024, the Applicant’s supervisor and the hiring manager exchanged emails and reached an agreement that the Applicant’s release date would be 1 March 2024.

13. On 22 and 25 January 2024, the Hiring Manager’s Assistant wrote to the Applicant seeking his availability for a discussion relating to the position. The Respondent states that the Applicant did not respond.

14. On 24 January 2024, the Applicant’s supervisor signed the release request, indicating 1 March 2024 as the Applicant’s release date.

15. On 26 January 2024, the Applicant received the offer of appointment via the Inspira onboarding portal. The offer in paragraph 1 reads:

I am pleased to inform you that you have been selected to serve as HUMAN RIGHTS OFFICER (TJO 219180) at the P-3 level, subject to medical clearance, and release by your Office, for an initial period effective as soon as possible to 31 December 2024 to the Office of the High Commissioner for Human Rights (OHCHR), Suva, Fiji.

16. In paragraph 4, the offer letter reads:

Please note that you may need a valid visa issued by the relevant authorities prior to reporting for duty, and that no travel, if applicable, can commence prior to your obtaining that visa and all other security clearances. In this respect, the Organization will assist you with the formalities required to obtain the visa upon your acceptance of this offer and completion of applicable clearances.

17. The Applicant submits that in relation to the above offer, what he understood was that the offer was not finalised or confirmed until all the formalities and clearances mentioned in the offer were concluded. He states that the Administration did not take any steps to assist him with those formalities.

18. On 29 January 2024, the Applicant contacted his First Reporting Officer (“FRO”) requesting to take certified sick leave. Partly, the Applicant wrote:

I am reaching out as I have not been feeling well and unfortunately, I need to go on a sick leave (CSL) so I can get fully back in shape before the upcoming HRC56 [56<sup>th</sup> session of the Human Rights Council]. Current estimate is that my CSL might take up to Friday 23 February, but this is just an estimate, and I might be able to be back earlier and of course I will keep you informed if that would be the case. Hence, you can count me in for HRC56 assignments. I would be grateful if you could consider this email as my CSL request so I can file a CSL request in Umoja with required documentation at a later date.

19. By the same email, the Applicant informed his FRO about the offer he had received and indicated that “while accepting the offer I indicated my availability earliest from 1 May 2024...”.

20. On the same day, the FRO responded to the Applicant stating:

Thanks for the message and sorry to hear you are not feeling well. Before proceeding, I would like if we could speak on phone – could you give me a phone number so I can call or you can call me via WhatsApp.

21. The Respondent states that the Applicant did not respond to the FRO's email.

22. On 5 February 2024, at 11:01, the HRO/HRMS emailed the Applicant and stated:

Reference is made to your temporary assignment to Suva, Fiji. My understanding is that your current supervisor has released you [...] effective on 01.03.2024 and that the colleagues in Suva have been expecting you to report to duty on the same date as they need to urgently fill up the position. Please let me know the progress of your travel to Fiji.

23. On the same day at 11:43, the HRO/HRMS sent another email to the Applicant stating:

...have received a message from your computer that you are on leave. Kindly respond to my message because the colleagues in Suva need to know if you are joining their team as planned on 01.03.2024.

24. On 6 February 2024, the Applicant responded to HRO/HRMS, partly stating:

thank you for reaching out and apologies for my delayed response. I think there is a misunderstanding in relation to my availability date for this temporary assignment. please be advised that when confirming my interest and accepting the temporary assignment offer, in Inspira (under reporting for duty section), I indicated that the earliest date I could be available for this assignment and could effectively travel to Suva is 1 May 2024. I assumed that my advice was taken into consideration as the job offer did not indicate any specific date for reporting for duty in Suva. While I am thankful to the hiring team and to my current FRO for providing and approving this exciting career development opportunity, unfortunately, even despite my willingness to travel ASAP, I am simply not in position to do so as requested on 1 March 2024 due to preexisting professional and personal commitments.

25. On the same day, the HRO/HRMS wrote back to the Applicant and stated:

Thank you for your response. Attached please find signed offer, unfortunately I couldn't find anywhere that you indicated of being available only on 1st of May 2024. If I've seen it, I would have alerted the hiring manager because you were offered a temporary assignment only so usually staff movement should be quick. Your current supervisor released you with effective 1st March 2024, meaning that your current office doesn't count on your services in March 2024. The Chief of Fiji has confirmed that she can wait a maximum two to three weeks after 1st March and if you cannot commit yourself to go to Fiji in March, she has asked us to move on with an alternate candidate and all this is because the office is in urgent need of staff. May I suggest that you contact ["HA" or "TH" (names redacted for privacy reasons) should you not be able to join Fiji office on 1st March 2024.

26. Between 7 and 12 February 2024, the HRO/HRMS and the hiring manager exchanged various emails on the unavailability of the Applicant to take up the position as of 1 March 2024.

27. Specifically, on 7 February 2024, the hiring manager requested the HRO/HRMS to contact the next candidate. The hiring manager wrote:

I am afraid we have not heard from [Applicant] and if you have not received a response either, we should move on. Would you kindly take the next steps please? Can you now contact the next candidate? [Applicant] was selected in early January, and I am concerned that it seems as if he is holding up the finalization of this recruitment process for our Regional Office. We have a colleague temporarily covering for his portfolio since the previous incumbent left, and she will herself go on maternity leave in three weeks, so we really cannot wait any longer.

28. On 8 February 2024, the hiring manager wrote to the Applicant and informed him that the start date of 1 May 2024 was not acceptable and informed him that HRO/HRMS will contact the next candidate.

29. On 12 February 2024, the HRO/HRMS contacted the Applicant again inquiring about his availability to report on duty by March 2024. She stated:

I am following up on my previous messages to you. Also, the Chief of Fiji office and admin staff tried to contact you multiple times last week to discuss your coming to the office, with no avail. The Chief of Fiji office has asked me to proceed and contact the next candidate because they are in urgent need of staff. Please respond to my message and let me know if you can join Fiji Office in March 2024, by COB Tuesday 13.02.2024.

30. On 13 February 2024, the Applicant replied to HRO/HRMS and among other things, he indicated that he cannot report for duty on 1 March 2024; the earliest he could report for duty was 9 April 2024. The Applicant partly wrote:

I am surprised that my supervisor was approached for my release without even first confirming my available date with me. I understand that this is a temporary assignment and that the hiring side may want to fill in the vacancy asap, but it does not change the fact that the candidates have their own professional and personal commitments – their lives, which should be taken into consideration to allow the candidates sufficient time for completing all required official formalities as well as taking care of their personal commitments before moving from one duty station to another. When I fully appreciate the flexibility of my supervisors, I understand they have agreed on my release starting 1 March 2024 without having information on personal circumstances and on how much time it may actually take for me to complete all formalities before I could move to Suva. In this regard, please be advised that it would be impossible for me to move on 1 March 2024 as I will not have close to enough time to complete any formalities – both professional and personal. As I already indicated in my previous email I can start dealing with those formalities only at the end of this month once I am back in office and it will take weeks for me to complete all formalities even in an expedited speed during extremely busy weeks of HRC session. I fully understand the need for hiring managers to fill in the position asap and I can try to complete all formalities asap on my side as well, but I am afraid that even with my best efforts I would be able to fly to Suva earliest on 9 April 2024. I understand that this may seem too late for the hiring managers but unfortunately, I will not be able to move before this date.

31. On the same day, the Administration informed the Applicant that the suggested date of 9 April 2024 was not acceptable, and the office was proceeding to contact the next candidate. The HRO/HRMS wrote:

I have asked [HA] the Chief of OHCHR Fiji Office if 9th April 2024 (a new date that you suggested to join Fiji office) would suit the office needs and she responded that it is too late for them and asked me to continue the recruitment against the position with the next candidate.

32. The Respondent states that on 15 February 2024, the fourth selected candidate was notified about her selection. However, this candidate declined the offer on 26 February 2024.

33. On 26 March 2024, the hiring manager requested the Administration to cancel the TJO. In the hiring manager's request to cancel the TJO, she indicated the reasons for cancellation as follows:

As you will be aware, successive recommended and selected candidates did not confirm interest or were not available as required by the programme schedule. Further, in view of a planned reorganisation of team responsibilities of the Regional Office, the incumbent of this position will have to take on additional tasks in addition to being the climate change focal point for the PCCMHS II [Pacific Climate Change Migration and Human Security] joint UN programme. We are currently in consultation with the donor about this change of staffing strategy that would allow for the position to be advertised as P-4 instead, and would like to proceed in this way, subject to approvals by HQ.

34. The position was cancelled the same day and the candidates including the Applicant were notified.

35. The Applicant requested management evaluation of the contested decisions on 7 March 2024.

36. On 16 April 2024, the Management Advice and Evaluation Section ("MAES") upheld the contested decisions.

### **Procedural background**

37. On 8 July 2024, the Applicant filed the present application.

38. The Respondent filed a reply on 9 August 2024.



39. On 30 August 2024, the Applicant filed a motion for production of evidence. On 1 October 2024, the Applicant filed another motion for anonymity. By Order No. 128 (GVA/2024), issued on 7 October 2024, the Respondent was directed to file a response on the Applicant's motions by 22 October 2024. The Respondent complied with the order and filed responses as directed.

40. By Order No. 53 (GVA/2025), issued on 19 May 2025, the parties were directed to file their closing submissions on or before 28 May 2025.

41. On 21 May 2025, the Applicant filed a motion requesting for extension of time to comply with Order No. 53 (GVA/2025). By Order No. 57 (GVA/2025), issued on 23 May 2025, the Applicant's motion was granted and the parties were directed to file their closing submissions on or before 30 June 2025. The parties complied with Order No. 57 (GVA/2025) and filed their closing submissions on 30 June 2025.

## **Submissions**

### *Applicant's submissions*

42. The Applicant's case is that the contested decisions were unlawful and improper. The Applicant raises four grounds in support of his position.

43. First, the Applicant submits that by placing unreasonable/unlawful expectations to remain available for work-related activities while on authorised annual leave, the Administration violated staff regulation 5.1 and staff rule 5.1 relating to staff rights to enjoy appropriate annual leave. He maintains that, according to the cited rule and regulation, annual leave is authorised time off work for the staff member's personal use and made available to provide a period of rest and attend to family/personal matters when away from work. Therefore, the Administration's expectation that he should have remained available on official email communication and deal with relocation related formalities during annual leave and counting annual leave days towards the time limit allocated to report for duty in Suva was unreasonable and unlawful.

44. Second, by placing unreasonable/unlawful expectations to remain available for office activities while on authorised CSL, the Administration violated staff regulation 6.2, staff rule 6.2 and the provisions of ST/AI/2005/3 (Administrative Instruction-sick leave).

45. Third, the Applicant avers that the Administration failed to provide him with timely and professional human resources support. The assigned human resources officer failed to provide him with required support to complete formalities, neglected important information, provided inappropriate advice contradicting the staff rules and regulations, applied an irrelevant legal framework, ignored the particularities of his situation and rather focused on unrelated matters.

46. Forth, the Administration applied an irrelevant/unapplicable legal framework namely ST/AI/2010/3 (Staff selection system) and refused to allow sufficient time for the Applicant's relocation with the time limit count starting on the day of his return from annual leave and CSL, that is, 26 February 2024.

47. As remedies, the Applicant requests:

- a. The rescission of the contested decisions; and
- b. If the rescission is impossible due to the cancelation of the post, he requests for compensation equivalent to special post allowance at the P-3 level for 24 months i.e. maximum time period he could have encumbered, including the difference in pension contributions).

*Respondent's submissions*

48. The Respondent contends that the decision to cancel the TJO was lawful. The TJO was cancelled because there was no available candidate to take up the position. The first and second recommended candidates were unavailable. The Applicant, who was the third candidate, proposed a release date of 1 May 2024, which was 3 months and 27 days from the date of notification of selection on 5 January 2024. The duration was not acceptable to the hiring manager. The fourth candidate declined the offer. The hiring manager reviewed the staffing situation of the Fiji Office given the impossibility to recruit a qualified candidate rapidly, and the

budget available, and rightfully decided to cancel the recruitment process in line with the Secretary-General's broad discretion in staff selection.

49. The Respondent submits that the Organization has the discretion to terminate a recruitment procedure for reasons connected with the interests of the service, as stated by the United Nations Appeals Tribunal ("UNAT") in *Kinyanjui* 2019-UNAT-932, paras 21-22.

50. The Respondent further maintains that the withdrawal of the offer of appointment was lawful and justified. He elaborates that the Applicant signed the offer of appointment for the TJO subject to the completion of a medical clearance and the release of the Applicant. The Applicant was informed that his supervisor had released him with the latest starting date on 1 March 2024. The Applicant's proposed release date defeated the purpose of the TJO, which was to recruit a replacement for the temporary post holder who had been working on the Programme and who had indicated her intention to leave on 31 December 2023. For the continuity of service in the Programme implementation, it was therefore crucial for the hiring manager to have someone on board to take over the functions as soon as possible after the departure of the temporary post incumbent. Also considering the obligation to report to donors on the use of the funds, it was important to complete this recruitment as a matter of urgency. The Respondent emphasizes that while no release date was included in the offer of appointment, it indicated that the TJO was effective as soon as possible.

*Respondent's response to the Applicant's specific allegations*

51. Regarding the Applicant's claim that the Organization violated his right to CSL by expecting him to respond to the request during his CSL, the Respondent submits that this claim is untrue. From 5 January 2024 until 29 January 2024, the Applicant was not on sick leave. In spite of this, all exchanges with the Applicant on the issue had been impossible despite several attempts, which would have indicated to him that there was an urgency to fill the position. During this period, the Applicant received six emails related to the TJO - the notification of his selection with a request to indicate his interest, a reminder to indicate his interest,

an email from his supervisor, an email from the hiring manager, and two emails from the Assistant to the Hiring Manager. He did not respond to any of these emails until 29 January 2024, when he indicated that he was going on sick leave.

52. Furthermore, while the Applicant informed his supervisor that he would be on sick leave from 29 January 2024, he did not apply for sick leave until 13 February 2024. In addition, in the email dated 6 February 2024 in which he informed the HRO/HRMS that he was not aware of the release date of 1 March 2024, the Applicant did not mention that he was on sick leave but rather on annual leave.

53. The Respondent argues that the Applicant's attitude following the receipt of the notification of selection and the suggested date of 1 May 2024, three months after the date of notification of selection to take up a temporary position, demonstrate his lack of interest in taking up the TJO that was, as he indicated, a potential temporary promotion for him from a P-2 to a P-3 position.

54. In relation to the Applicant's argument that sec. 10.3 of ST/AI/2010/3/Rev.1 (Staff Selection System) is not applicable and his suggestion that the two-month calculation should have started only when the staff member is back in office at his duty station, i.e. in his case from the moment he returned from certified sick leave on 26 February 2024. According to the Applicant, his latest start date should have been 26 April 2024. The Respondent submits that the release date was agreed by the two managers (Applicant's supervisor and the hiring manager) considering operational needs of both offices. Offers of appointment are naturally tailored according to the exigencies of service and not according to the candidates' personal convenience. Despite the urgency to fill the post, the hiring manager was flexible enough to accommodate the Applicant's need of additional time, and offered to wait three more weeks, that is, until 25 March 2024, a start date that was not accepted by the Applicant as he kept referring to 1 May 2024 and then 9 April 2024.

55. In view of the above, the Respondent requests the Tribunal to dismiss the application.

## **Consideration**

### *Motions*

56. The Tribunal notes that the Applicant filed three motions that need to be addressed.

### Motion to award costs against the Respondent

57. The Applicant filed a motion to award costs against the Respondent for abuse of the process. In relation to this, the Tribunal finds that no abuse occurred, but only a lawful exercise by the Respondent of legal defence duties. The motion is therefore rejected.

### Motion for production of evidence

58. On 30 August 2024, the Applicant filed a motion for production of evidence. The Respondent filed a response to the motion on 22 October 2024 and requested the Tribunal to dismiss the motion.

59. In *Bertucci* 2010-UNAT-062, paras. 22 and 23, the United Nations Appeals Tribunal held that,

under the new system of administration of justice, the [Dispute Tribunal, “UNDT”] has broad discretion with respect to case management... As the court of first instance, the UNDT is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and do justice to the parties.

60. The Tribunal notes that this matter is clear, duly briefed and no further evidence is necessary to assist the Tribunal in the determination of the case. Therefore, considering that the Applicant’s motion for production of evidence falls squarely within the case management authority of this Tribunal regarding evidence, procedure and trial conduct, the motion is denied.

### Motion for confidentiality

61. On 1 October 2024, the Applicant filed a motion for confidentiality. The Respondent filed a response to the motion on 22 October 2024.

62. The Tribunal recalls that the internal justice system is governed by the principles of transparency and accountability, as reaffirmed in General Assembly Resolutions 76/242 and 77/260. The Tribunal notes, that among other things, the Applicant submits that the disclosure of his identity would allow the public to identify him and that would have a negative impact on him and his family. The Tribunal agrees with the Respondent, that the reasons advanced by the Applicant do not override the interests of transparency and accountability. Accordingly, the Applicant's motion is denied.

### **Merits**

63. Staff Rule 4.12(a) of the ST/SGB/2023/1/ Rev. 1 (Staff Regulations and Rules of the United Nations), provides:

A temporary appointment shall be granted for a period of less than one year to meet seasonal or peak workloads and specific short-term requirements, having an expiration date specified in the letter of appointment.

64. Section 1.1 of ST/AI/2010/4/Rev.2 (Administration of temporary appointments) states:

The purpose of the temporary appointment is to enable the Organization to effectively and expeditiously manage its short-term staffing needs. As stated in General Assembly resolution 63/250, "temporary appointments are to be used to appoint staff for seasonal or peak workloads and specific short-term requirements for less than one year but could be renewed for up to one additional year when warranted by surge requirements and operational needs related to field operations and special projects with finite mandates".

65. The Tribunal is aware that although no release date was included in the Offer of Appointment, which the Applicant signed on 26 January 2024, it indicated that the TJO was effective *as soon as possible*.

66. The Applicant claims that he was entitled to two months relocation timeframe as per sec. 10.3 of ST/AI/2010/3/Rev.1 (Staff selection system). This Administrative Instruction provides as follows:

Selected staff members shall be released as soon as possible, and in any event no later than one month after the date on which the releasing office is notified of the selection decision, if the move is within the same duty station. For staff members selected for a job in another duty station, including those in peacekeeping operations or special political missions, the release shall be no later than two months after the releasing office is notified of the selection decision.

67. In the Tribunal's view it must be considered, as a starting point, that the Applicant was on annual leave followed by CSL, duly authorised by the Administration.

68. During his leave days, especially CSL, he had no legal obligation to engage in official activities (e.g. remaining available on his United Nations email account, responding to official email communication, dealing with temporary appointment formalities). The Administration was bound by these rules, as they were part of the existing legal contract.

69. Counting annual leave and CSL days towards the time limit allowed for implementation of a temporary appointment relocation was unlawful as any time limit count should have started only from day the Applicant was back to his official duties from annual leave and CSL (that is, on 26 February 2024).

70. The Tribunal notes that the onboarding process was tainted with flaws and irregularities as the human resources team failed to provide onboarding support in compliance with rules and regulations.

71. The Human Resources Officer decided to contact the Applicant's FRO and agreed on the Applicant's release date without any attempt at consulting with the Applicant; the release date was agreed by the two managers considering the operational needs of both offices but no consultation with the Applicant and without taking into account his availability. This was a sign of negligence and flawed onboarding support as the Human Resources Office should have taken into account the Applicant's availability date and consulted with him before agreeing on any other and significantly different date with the FRO.

72. The Tribunal notes that the Applicant expressed in any case his understanding of the urgency faced by the hiring manager and expressed his willingness to relocate on 9 April instead of 1 May as initially indicated.

73. The Applicant's email of 13 February was indeed very open and it showed his availability to make any accommodation possible to relocate at the soonest possible date and to balance the other competing interests (which the Administration instead failed to do). The said email reads as follows:

Dear [N],

Thank you for your message. Please be advised that I do not understand why you have shared a PDF file, stating that it was a "signed offer", in relation to my availability date as the file contains a generic email (not a signed offer) which thanks me for confirming my interest for the temporary assignment. As I indicated in my previous email, I mentioned my availability date for this assignment in INSPIRA's reporting for duty section, under onboarding activities (please see attached screenshot), and I understand that this is the only place where I could have shared my availability date and this is the place where human resource colleagues should have looked for this details when preparing the offer document.

Further, I am surprised that my supervisor was approached for my release without even first confirming my availability date with me. I understand that this is a temporary assignment and that the hiring side may want to fill in the vacancy asap, but it does not change the fact that the candidates have their own professional and personal commitments – their lives, which should be taken into consideration to allow the candidates sufficient time for completing all required official formalities as well as taking care of their personal commitments before moving from one duty station to another. When I fully [appreciate] the flexibility of my supervisors, I understand they have agreed on my release starting 1 March 2024 without having information on personal circumstances and on how much time it may actually take for me to complete all formalities before I could move to Suva. In this regard, please be advised that it would be impossible for me to move on 1 March 2024 as I will not have close to enough time to complete any formalities – both professional and personal. As I already indicated in my previous email I can start dealing with those formalities only at the end of this month once I am back in office and it will take weeks for me to complete all formalities even in an expedited speed during extremely busy weeks of HRC session. I fully understand the need for hiring managers to fill in the position asap and I can try to complete all formalities asap



on my side as well, but I am afraid that even with my best efforts I would be able to fly to Suva earliest on 9 April 2024. I understand that this may seem too late for the hiring managers but unfortunately I will not be able to move before this date. I could also suggest to explore the possibility of telecommuting from Geneva for couple of weeks (e.g. March 25 – April 8) before my move to Suva, but I am afraid that will not be an option as the tasks I perform during HRC sessions cannot be handed over to somebody else in the middle of the session. In relation to your remark on possibility of proceeding with alternative candidates, please be advised that of course you can do so if the rules allow. However, on my side I do not think that I am requesting anything extraordinary by asking sufficient amount of time to complete all required formalities before moving to Suva and maintain my continued interest, and hence if the offer is terminated I will have to file an application for management evaluation of that decision and suspension of the action when the decision is being evaluated.

Moving forward, I would also appreciate if you could please limit your questions and comments to issues related to this temporary assignment only. I understand that you are HR Officer but I do not think it was necessary or appropriate for you to share the broadcast, make comments and asked questions about my leave situation. I have supervisors for this and they are doing a great job reminding me about my staff duties and ensuring compliance with rules.

Please do kindly share this information with the hiring team if required as I have expertly limited time for work communication at the moment and will not be able to engage in further discussions before the week of February 26.

Kind regards.

74. Furthermore, the Tribunal is of the view that the moment the Applicant was available for relocation, as duly communicated to the managers and human resources, that is 9 April 2024, was not irrational, considering the distance between the duty station concerned by the relocation and the number of formalities and administrative activities to undertake.

75. In *Sprauten* 2011- UNAT-111, where a candidate was notified of his selection for a post in different duty station on 19 December 2008, with latest start date indicated by the Administration to be 1 February 2009, a period of 2.5 month was found sufficient.

76. The Administration, instead, took contact with the fourth candidate before the deadline for the Applicant to relocate elapsed, notwithstanding also the fact that, even in case of acceptance, the fourth candidate, with a two-month relocation timeframe, could have joined Fiji team only after the Applicant's suggested date of 9 April 2024.

77. Apart from any consideration about the negligence and failure of the Administration in supporting the staff member in facing the new situation and supporting him in facing the difficulties of the case, the Administration showed itself to be not flexible enough in the circumstances of the case and it refused to allow sufficient time for relocation with time limit count starting on the day of the Applicant's return from annual leave and CSL - 26 February 2024. The Administration did not take into account the personal circumstances of the Applicant.

78. The principle of good faith was, therefore, violated by the Administration. The Applicant, instead, demonstrates understanding of the needs of the Administration, as results from the clear terms of the email above quoted at para. 71.

79. The case at hand is, therefore, different from the former United Nations Administrative Tribunal Judgment No. 519, *Kofi* (1991), where the Administration cancelled the TJO (although the post remained in the organigram), as there the recruitment process for the TJO was cancelled since no candidate was available to take up the position in early 2024.

80. The Tribunal is aware that in the past it has held that the Organization has the discretion to terminate a recruitment procedure for reasons connected with the interests of the service.

81. In *Kinyanjui*, the UNAT held that:

the decision not to carry through with the recruitment process . . .  
and instead to open a fresh recruitment procedure by re-advertising  
the position, is a valid and thus, lawful exercise of the

Administration's discretion if based on sound reasons inextricably linked to the interests of the service.

82. In the present case, however, the TJO was not cancelled following a new lawful assessment of the needs of the Administration or the concrete situation, but only for an unlawful reason, failing to consider the availability of the Applicant.

83. The decision to cancel the TJO notwithstanding the availability of the Applicant is therefore unlawful.

#### *Remedies*

84. The OHCHR's refusal to grant the Applicant sufficient time for his relocation from Geneva to Suva in Fiji and the withdrawal of the offer of temporary appointment for the position of Human Rights Officer (TJO 219180) are both unlawful and are rescinded.

85. It results from the records that (given that the Administration did not demonstrate that it had cancelled the TJO) the position must be considered still in the organigram. It follows that the Administration must fill the position offering it to the Applicant, with a new deadline to relocate set in compliance with the rules and principles governing the matter. The Tribunal accordingly orders the Administration to do so.

86. Under art. 10 para. 5 of its Statute, where the contested administrative decision concerns appointment, promotion or termination, the Dispute Tribunal shall also set an amount of compensation that the Respondent may elect to pay as an alternative to the rescission of the contested administrative decision or specific performance ordered. In the present case, considering the interest at stake and the reasons of the judgment, the Tribunal sets the compensation in lieu in a sum corresponding to the salary of nine months, considering that the Applicant would have served from 9 April 2024 to 31 December 2024, including the difference in pension contributions.

87. The Tribunal notes that the Applicant requested damages (only in the amount of compensation equivalent to the special post allowance at the P-3 level for 24

months i.e. maximum time period he could have encumbered, including the difference in pension contributions, with no reference instead to other expenses faced), but the request is filed only in the event that rescission is impossible due to the cancellation of the post, which is not the case, as the decision to cancel the position is rescinded by this judgment. Therefore, there is no place at this moment to grant damages to the Applicant, who could have interest in the claim only if the position be cancelled for supervening reasons.

### **Conclusion**

88. In view of the foregoing, the application is fully granted and the challenged decisions are rescinded.

89. The Administration is to fill the position by offering it to the Applicant, with a new deadline to relocate, to be set in compliance with the rules and principles governing the matter.

90. The Tribunal sets the compensation *in lieu* under art. 10.5 of its Statute in the amount equivalent to the salary of nine months, i.e. maximum time period the Applicant could have encumbered the post, including the difference in pension contributions.

91. 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 States prime rate 60 days from the date this Judgment becomes executable.

*(Signed)*

Judge Francesco Buffa

Dated this 16<sup>th</sup> day of July 2025

Entered in the Register on this 16<sup>th</sup> day of July 2025

*(Signed)*

Liliana López Bello, Registrar, Geneva