



Before: Judge Francesco Buffa

Registry: Geneva

Registrar: René M. Vargas M.

QUATRINI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON
CLOSING STATEMENTS**

Counsel for Applicant:

Maria Teresa Cirelli

Counsel for Respondent:

Cornelius Fischer, LPAS, UNOG

Introduction

1. On [19] March 2020, the Tribunal issued Judgement *Quatrini* UNDT-2020-043 on liability. In this Judgment, the Tribunal decided that the parties were to file updated closing statements on remedies in consideration of its findings on liability.

Consideration

2. The remedies that the Dispute Tribunal may award are outlined in art. 10.5 of the Dispute Tribunal's Statute as follows:

As part of its judgement, the Dispute Tribunal may only order one or both of the following:

(a) Rescission of the contested administrative decision or specific performance, provided that, 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, subject to subparagraph (b) of the present paragraph;

(b) Compensation for harm, supported by evidence, which shall normally not exceed the equivalent of two years' net base salary of the applicant. The Dispute Tribunal may, however, in exceptional cases order the payment of a higher compensation for harm, supported by evidence, and shall provide the reasons for that decision.

3. The Appeals Tribunal has held that “the very purpose of compensation is to place the staff member in the same position he or she would have been in had the Organization complied with its contractual obligations” (see *Warren* 2010-UNAT-059, para. 10). Compensation may be awarded for (a) pecuniary damages, such as income loss, and (b) non-pecuniary damages, such as stress, physical pain, and reputational harm (see, for instance, the Appeals Tribunal in *Kebede* 2018-UNAT-274, paras. 20-22, and *Harris* 2019-UNAT-896, para. 61). When calculating an income loss, other income that an applicant has actually held during the compensable time period will therefore need to be offset from the compensation award, just as the applicant will need to prove that as a matter of fact, s/he intended to mitigate her/his damage, for instance, by applying for alternative employment (see, among other judgments, *Dube*

2016-UNAT-674, para. 59 and, in line herewith, the partial dissent in *Appleton* 2013-UNAT-347, para. 10).

4. Consequently, in accordance with art. 19 of the Dispute Tribunal's Rules of Procedure,

IT IS ORDERED THAT:

5. By **4 p.m. on Wednesday, 25 March 2020**, the Applicant is to file his final submissions on remedies together with all relevant documentation. The statement is to be five pages maximum, using Times New Roman, font 12 and 1.5 line spacing;

6. By **4 p.m. on Wednesday, 1 April 2020**, the Respondent is to file his response to the Applicant's final submissions on remedies together with all relevant documentation. The statement is to be five pages maximum, using Times New Roman, font 12 and 1.5 line spacing;

7. By **4 p.m. on Monday, 6 April 2020**, the Applicant is to file his final observation on the the Respondent's response solely based on the submissions and documentation already on record. The statement is to be three pages maximum, using Times New Roman, font 12 and 1.5 line spacing. Any new submissions and/or evidence will be struck from the record.

(Signed)

Judge Francesco Buffa

Dated this 19th day of March 2020

Entered in the Register on this 19th day of March 2020

(Signed)

René M. Vargas M., Registrar, Geneva