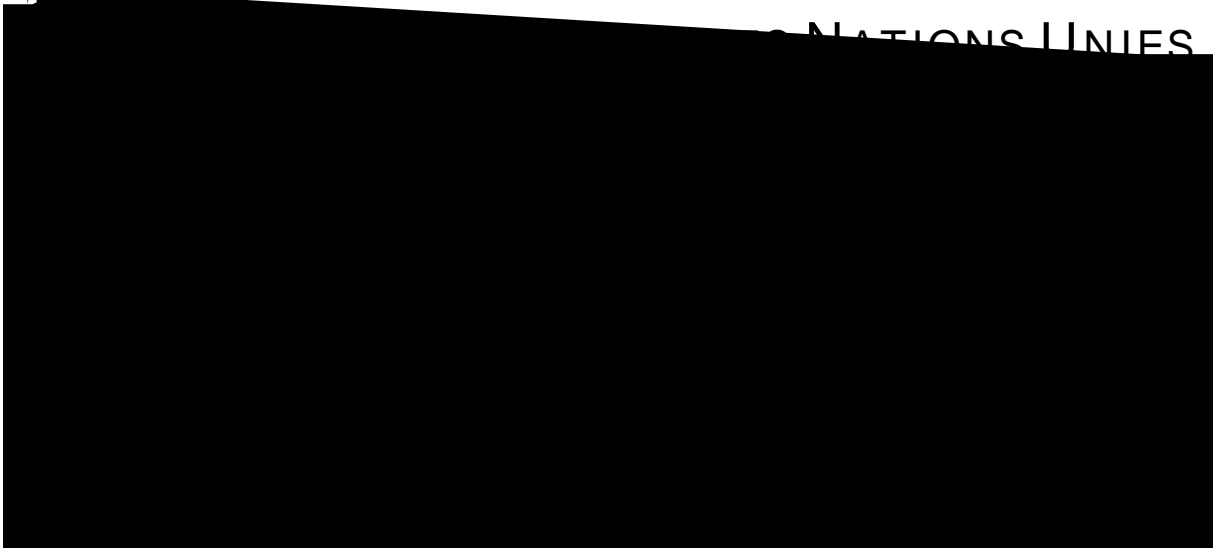




UNITED NATIONS APPEALS TRIBUNAL

UNITED NATIONS UNIES





THE UNITED NATIONS A

staff mem/er 8 re: uired independence and impartialit& t) us potentiall& reflecting ad"ersel&on t) e 6und andAor gi"ing rise to reputational concerns.

; Ba ed on t- e fo"e. oin. ) t- e UN Et- ic Office note t- at t- e fact t- at (i) a taff + e+ , e") 2- ile e"vin. on t- e Pen ion Boa"d) pa"ticipate in ove" een. t- e pe"fo"+ ance of t- e %EO) 2- o in t\*"n + ana. e t- e taff + e+ , e"" pe"fo"+ ance) and t- at (ii) , / e"vin. on t- e B\*d. et G o"kin. # "o\*p) t- e taff + e+ , e" 2o\*ld - ave a a/ in t- e app"oval of - i o" - e" Office' , \*d. et and po t ) incl\*din. po i, l/ - i o" - e" o2n po tion and , enefit ) . ive "i e to , ot- a pe" onal conflict of inte"e t a 2ell a a conflict of f\*nction .

; Accordinl&gi"en t) e ris- of reputational damages to t) e UNJ5\$6 in t) e e"ent of a conflict of interest+or e"en a perception or appearance t) ereof+t) e UN Bt) ics 4ffice notes t) at it 9ould /e prefera/le for an& UNJ5\$6 staff mem/er not to ser"e on t) e \$ension ' oard+as indeed pro"ided for in amended #ule C.1. Noting t) at amended #ule C.1 9as adopted after t) e April 2013 election+from an et) ics perspecti"e+and to mitigate an& potential conflict-of-interest ris- arising from an& staff mem/er concurrentl& ser"ing in t) e UNJ5\$6 5ecretariat 0e2ecuting /od& and on t) e \$ension ' oard 0g"erning /od&+t) e UN Bt) ics 4ffice notes t) at it 9ould /e ad"isa/le to re: uire an& suc) staff mem/er to restrict )im- or )erself from )andling matters in"ol"ing t) e UNJ5\$6+in accordance 9it) t) e re: uirements of 5taff #ule 1.20: 1.

?. In an e-mail dated 19 4cto/er 2018+ t) e C) airperson informed mem/ers of t) e ??<sup>9</sup> session of t) e \$ension ' oard+ including ( s. #oc-cliffe+ of t) e ad"ice t) at ) e ) ad recei"ed from t) e %irector of t) e Bt) ics 4ffice+and proposed t) at ( r. 6itCgerald+anot) er participants8 representati"e appointed to t) e ' . as an alternate+ ser"e su/stanti"el& on t) e ' . + in place of ( s. #oc-cliffe. In a follo9-up e-mail dated 22 4cto/er 2018+ t) e C) airperson confirmed ) is proposed arrangement.

3. 4n 22 4cto/er 2018+ ( s. #oc-cliffe filed an application for e2ecution of Judgment No. 2013-UNAT-803.

S\*, + i ion

S . Rockcliffe' Application fo" E7ec\* tion

8.

constituent groups, committees and working groups, the Chairperson had removed her name from the list of members of the . . .

9. ( s. #oc-cliffe maintains that the decision of the Chairperson was procedural and flawed as it circumvented the established process hereof and the Standing Committee of the Session Board is authorized to act for the Session Board when it is not in session.

10. ( s. #oc-cliffe contends that the Chairperson based his decision on an opinion from the Ethics Office that he had personally solicited. That opinion in turn based its rationale on the amendment to the Rules of Procedure of the Fund that had been found to be null and void.

11. ( s. #oc-cliffe alleges that the decision to remove her from the . . . appeared to be a direct act of retaliation against her for expressing her agreement with the report of the Ethics Office of Internal Affairs. It also demonstrates bad faith and collusion on the part of the secretariat of the Fund and the Chairperson.

12. ( s. #oc-cliffe requests that the Appeals Tribunal order the execution of Judgment No. 2013-UNAT-803.

The respondent's content

13. Judgment No. 2013-UNAT-803 issued by the Appeals Tribunal has been fully executed. ( s. #oc-cliffe received documents and training for and attended the UN5SC meeting on 8 November 2013. She also participated in the subsequent UN5SC meetings as well as the 77th session of the Session Board from 27 July to 3 August 2018. In a word ( s. #oc-cliffe ) has not been denied her right to participate in the UN5SC and the Session Board ( s. #oc-cliffe ) as been accorded all rights and privileges in accordance with the Appeals Tribunal Judgment, including access to all documents.

14. \* o9e"er+ ( s. #oc-cliffe's participation in the Session Board is not unfettered. It is governed by the norms of conduct that govern all members of the Session Board, including acting with the highest standards of efficiency and competence and integrity. After the Ethics Office finding that there was a conflict of interest for ( s. #oc-cliffe to serve as a member of the . . . + the matter should be and was resolved in favor of the interests of the Fund. There is no right for



decisions and balances from the governance of the Fund.<sup>3</sup> ( s. #oc-cliffe 9as t)us gi"en t9o options: eit)er remain on t) e \$ension ' oard and accept to /e mo"ed to anot)er post outside of t) e Fund+or continue to 9or- in t) e Fund and resign from t) e \$ension ' oard and t) e UN5\$C.<sup>8</sup>

21. T) e main findings of t) e Appeals Tri/unal on t) e merits 9ere t) at i1 t) ere 9as no la9 t) en pro) i/iting ( s. #oc-cliffe from running for election to t) e UN5\$C ii1 s) e 9as la9 full& elected G and iii1 ( s. #oc-cliffe s) ould conse: uentl& /e accorded t) e same rig) ts and pri"ileges as t) e ot) er dul& elected UN5\$C mem/ers+ including participating in \$ension ' oard sessions and meetings and its constituent groups+ committees and 9or- ing groups.

22. Conse: uentl& alt) oug) t) e Appeals Tri/unal did not e2plicitl& address t) e issue of conflict of interest in its Judgment+ it impliedl& reflect) ed it+ /& means of appl) ing t) e la9 in force at t) e time. T) e Appeals Tri/unal stated t) at: Ka- t) e time 9) en ( s. #oc-cliffe decided to /e a candidate in t) e election t) ere 9as no la9 9) ic) pre"ented )er from /eing elected to t) e UN5\$C.<sup>9</sup> T) e Appeals Tri/unal )eld:<sup>10</sup>

; !t t) erefore follo9s t) at as a direct conse: uence of )er election to t) e UN5\$C t) e same rig) ts and pri"ileges pertaining to an elected mem/er are conferred upon ( s. #oc-cliffe. T) ere is no la9 9) ic) empo9er t) e 5tanding Committee to remo"e or restrict t) ese rig) ts and pri"ileges.

; The Standing Committee's decision to den& ( s. #oc-cliffe access to t) e \$ension ' oard documents and

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