



## Introduction

1. The Applicant, a former staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), contests the decision not to select her for the post of Administration/Programme Assistant, at the GL-6 level, in the UNHCR Office in Baku, Azerbaijan, and requests its rescission.

2. The Applicant further seeks the Tribunal to order that she be given priority consideration for the litigious post. Additionally, she requests compensation for moral damage.

## Facts

3. The Applicant joined UNHCR in Baku in November 2000 as a Senior Programme Clerk at the GL-5 level. In January 2002, she was promoted to the GL-6 level as a Programme Assistant following the reclassification of her post.

4. By a memorandum dated 31 March 2010, the Applicant was informed that, following the review of the workforce requirements to address the 2011 operational imperatives in the UNHCR Office in Azerbaijan, the post of Programme Assistant she encumbered would be submitted for reclassification to Administration/Programme Assistant, at level GL-6, with effect from 1 January 2011. The memorandum clarified that the reclassification was triggered by the need for a different set of skills and competencies to perform the functions of the new post and could therefore have direct impact on the Applicant as the current incumbent. The Applicant was encouraged to apply for the reclassified post and informed that, should her application be successful, she would be recruited against this new position. Otherwise, the comparative review process provided for in the



16. On 26 June 2012, Counsel for the Applicant filed a motion to postpone the hearing until late August and the Tribunal granted it.

17. On 12 September 2012, the Tribunal conveyed to the parties its view that the case could be dealt with on the papers. The Tribunal gave the parties one week to file comments, if any. The Applicant agreed with the Tribunal's proposal to not hold an oral hearing and the Respondent did not file any objections.

#### Parties' submissions

18. The Applicant's principal contentions are:

a. The decision not to select her for the reclassified post was in breach of paragraph 12 of the inter-office memorandum IOM/FOM No. 27/2009 (Procedural Guidelines for Changes in Status of Positions), which stipulates that "[p]rovided that all criteria of the reclassified position are met by the incumbent, he/she will be given priority consideration" in the selection. If the Administration's sole obligation in the selection process was to choose the most suitable candidate out of a pool of suitable candidates, paragraph 12 of IOM/FOM No. 27/2009 would be emptied of its plain meaning and intention;

b. In this case, there is no evidence that the Applicant was given priority over other candidates. To the contrary, the unequivocal statement in the decision of 27 April 2011 that "any priority consideration under paragraph 12 of IOM/FOM No. 27/2009 did not prevent the selection of a more suitable candidate" demonstrates that in fact











decision. The Applicant did not provide documentary evidence showing that the established procedure to change her functions or to request/conduct the reclassification of her post was not followed. Additionally, the Applicant did not substantiate her claim with respect to the Respondent's alleged intentions to retain the selected candidate on a G-6 post. Therefore, the Applicant has not met the burden of proving that the Administration acted arbitrarily and improperly in selecting a candidate other than her.

### Conclusion

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

The Application is rejected.

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Judge Thomas Laker

Dated this 7<sup>th</sup> day of November 2012

Entered in the Register on this 7<sup>th</sup> day of November 2012

( )

René M. Vargas M., Registrar, Geneva