

Case No. UNDT/GVA/2015/106
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Judgment No. UNDT/2016/026

1. The Applicant's claim is based on Article 101 of the United Nations Charter and Article 102 of the Charter of the United Nations. The Applicant claims that the Respondent's actions constitute a breach of its obligations under the Charter and that it is entitled to compensation for the damage caused by the Respondent's actions. The Applicant also claims that the Respondent is liable for the damage caused by its actions.

2. As requested:

- a. A declaration that the Respondent's actions are unlawful and that the Respondent is liable for the damage caused by its actions.
- b. A declaration that the Respondent's actions constitute a breach of its obligations under the Charter and that it is entitled to compensation for the damage caused by the Respondent's actions.
- c. Damages in an amount of USD 10,000,000 and as a punitive estimate of the losses caused by the Respondent's actions and its effects.
- d. Rescission of the Respondent's actions and the grant of a permanent injunction to the Applicant in the future.
- e. Payment of an amount of USD 10,000,000 to the Applicant as compensation for the damage caused by the Respondent's actions and as a punitive estimate of the losses caused by the Respondent's actions.
- f. Payment of an amount of USD 10,000,000 to the Applicant as compensation for the damage caused by the Respondent's actions and as a punitive estimate of the losses caused by the Respondent's actions.

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6. The Commission, in its decision of 10 June 2016, found that the applicant's claim for compensation for moral damage was not well founded. The Commission also found that the applicant's claim for compensation for material damage was not well founded. The Commission also found that the applicant's claim for compensation for moral damage was not well founded.

7. In its decision of 10 June 2016, the Commission found that the applicant's claim for compensation for moral damage was not well founded. The Commission also found that the applicant's claim for compensation for material damage was not well founded. The Commission also found that the applicant's claim for compensation for moral damage was not well founded.

8. Also in its decision of 10 June 2016, the Commission found that the applicant's claim for compensation for moral damage was not well founded. The Commission also found that the applicant's claim for compensation for material damage was not well founded. The Commission also found that the applicant's claim for compensation for moral damage was not well founded.

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25. T*ese motions ;e)e)e&e&t&ed -" 6)de) No. 82 0GVA/20153 o
10 A#)%\$ 2015.

26. Do\$\$o ; %ng t*e %ssuan&e o a se)%es o Judgments)u\$%ng u#on ten &ases t*at
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Featherstone UNDT/2015/1173+ -" 6)de) No. 262 0GVA/20153 o
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a. The respondents' comments on ; et al) a)nt su-stant, e)ing ; as needed and

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27. Upon the T)-una\$-s)nst)u&tions+ on ?1 De&em-e) 2015+ -ot* #a)tles &on,e"ed t)e) ,e ;s< %n #a)t%&u\$a) t)e A##\$&ants ; %s*ed to #)o, %de u)t)e su-m%ss%ons I and+ #oss%-)\$+ add%t%ona\$ e, %den&e I on)emed%es+ ; %e)as t)e /es#ondent %ntended to &a\$\$; %tnesses to test% " on:

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28. Pursuant to 6)de) No. 2 0GVA/20163 o 5 Janua)" 2016+ on 12 Janua)" 2016+ ea&* o t)e #a)tles %sed add%t%ona\$ su-m%ss%ons on t)e %ssues t*at t)e" *ad)es#e&t%, e\$" %dent% %ed o) u)t)e) d%&uss%on+ and t)e /es#ondent #)o, %ded t)e t; o ; %tnesses statements+ as ; e\$\$ as t)e de&%s%on to &on, e)t to #e)manent t)e %4ed5te)m a##o%ntment o one o t)e UNA . / T sta mem-e)s t*at ; e) e5&ons%de)ed u)t)e) to Judgment Tredici et al UNDT/201' /11'.

29. !" 6)de) No. 19 0GVA/20163 o 1' Janua)" 2016+ t)e T)-una\$ dete)m%ned t*at t)e add%t%ona\$ e, %den&e #)o#osed+ %n #a)t%&u\$a) t)e t; o ; %tnesses)e9uested+ ; %\$e)e\$ated to)ese, ant %ssues+ d%d not -)%ng to \$%g*t ne ; %n o)mat%on not a\$)ead" &ontained %n t)e do&uments and su-m%ss%ons on %\$e. @t u)t)e) de&%ded t*at no o)a\$ *ea)ng ; as to taCe #a&e+ ; %\$e g%, %ng -ot* #a)tles t)e &*an&e to %\$e t)e))es#e&t%, e &os%ng statements %n ;)%t%ng+ ; %&* t)e" d%d on 21 Janua)" 2016.

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emphasizing the need to be addressed as the
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UNCT/2015/123 and UNCT/2015/124

6. UNCT/2015/124 and UNCT/2015/125. The
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and denied, and not a
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7. The Commission's
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8. Regarding the
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9. On remedies, the Tribunal has not been required to set a compensation rate, as to the issue. (The Tribunal); since the Commission is not to be a permanent appointment, it is a discretionary decision; since the Administration has not acted in accordance with the Tribunal's directions

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Legal framework of the contested decisions

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on the basis of the suitability of the job and the position from the date of the permanent appointment. 72+ em#*as% added3<

-. The CTH staff members are entitled to a salary and a pension consideration of the suitability of the position to the permanent appointment. 66+ 67 and 823<

&. The pension scheme; as demanded of retroactive consideration of the suitability of the appointment of the A#%&ants (0#a)a. 823<

d. As a result of the decision of the permanent appointment; as a salary and pension entitlement to an individual and a pension assessment of the individual, a salary and a pension consideration (0#a)a. 66 and 67+ em#*as% added3+ and in doing so, the "reasonable consideration" paid to the CTH staff members demonstrating their deficiencies/ competencies and transferrable skills rendering them suitable for the positions; that in the 6)gan%Bat%on (0#a)a. 72+ em#*as% added3< and

e. The A7G/68 / (; as not entitled to the "so-called" on the written mandate of the CTH LEF disengagement; as stated in the pension and to the suspension of the contract on the CTH's written mandate (0#a)a. 683. Thus, the A7G/68 / (; as not entitled to the pension on the Memorandum of Understanding to the exclusion of all other relevant criteria set out in / eso\$ut] T J D 10 . 92 T L D T * [(U) - 9 . 49023 (N) 2 . 37334 () 2 . 37334

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25. In addition, and in order to ensure the uniformity of the application of the law, the Administrative Tribunal of the United Nations should refer to the Administrative Tribunal of the United Nations in the case of Malmström et al. (2015 UNAT 57) and must be taken as a guiding precedent in determining the admissibility of the applications at issue and as the more general principle of law. The findings of the Administrative Tribunal in the case of Longone (2015 UNAT 58) and Ademagic et al. (2015 UNAT 59) and McIlwraith (2015 UNAT 603).

Subject of the judicial review

26. Pursuant to article 2.10a of the Statute of the Tribunal, it is competent to examine the legality of administrative decisions. The administrative decisions are subject to review in these cases where the decisions are based on the facts and circumstances of the case and the law. The Administrative Tribunal of the United Nations in the case of Longone (2015 UNAT 58) and Ademagic et al. (2015 UNAT 59) and McIlwraith (2015 UNAT 603).

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6. The Guidelines in outcome 10 (a) include a suitability test; the applicant's, in the interim, is assessed against the following elements:

a. The applicant's qualifications, experience and conduct and

5. The highest standards of integrity and integrity are essential in the context of the

5. The ongoing not standing; it should be noted that the interests of the
6. The applicant also mentioned in the case, and, in fact, as such, it
is a legitimate consideration to be taken into account; when assessing the
suitability of a staff member. In addition, as articulated in the case, it is
an essential part of the "integrity" and "integrity" and is to be assessed together
; and the relation to the applicant as used to a "dependent" relation on the
footing; the test; others.

6. The United Nations Administrative Tribunal has assessed the
applicant's and the office's policies, 505, is the main and the
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Eligibility

'7. Judgment *Malmström et al.* 2015 UNAT 57 states that the matter in question was referred to the A7G/68 / (on\$ " o) &ons%de)at%on o t*e l\$u%ta-%\$%t"2 o t*e A##\$%&ants o) &on,e)s%on.

'8. On the date of that the Administration proceeded to a new; e\$%g%-%" assessment. Not on\$ " %s t*%s #atent)om t*e ,o\$um%uous)e&o)ds o t*e #)o&ess -ut %t ; as u)t*e) &on %med -" t*e /es#ondent %n *%s #sead%ngs< -es%des+ t*e ne ; e\$%g%-%" assessment &ondu&t&d %s)e %e&t&d %n t*e de&%s%on %ette)s+ unde) t*e &)%te)on)e e)ed to %n #a)a. '2.a a-o,e. On)e\$assess%ng t*e A##\$%&ants= e\$%g%-%" + t*e Adm%n%st)at%on d%sega)ded t*e s#e&% %& %nst)u&t%ons)e&e% ,ed)om t*e A##eas and D%#ute T)%-una\$s.

Retroactivity

'9. *Tredici et al.* UNDT/2015/111 &\$ea)\$" stated that it referred the UNA . / T &on,e)s%on e4e)&%se to t*e A7G/68 / (o) l)retroactive &ons%de)at%on2 0em#%as)s added. As to *Malmström et al.* 2015 UNAT 57+ a\$%oug* %t does)e e) a\$so to)et)oa&t%,e l&on,e)s%on2 o) l)e e&t2 o &on,e)s%on+ %ts Ce" #assage 0#a)a. 8?3 unam-%guous\$" o)des t*e l)et)oa&t%,e &ons%de)at%on2 o t*e A##\$%&ants= su%ta-%\$%t". Cont)a)" to ; *at t*e /es#ondent suggests+ %m#sement%ng t*e)esu\$%ng de&%s%ons)et)os#e&t%,e\$" ; ou\$d not su %e to meet t*e)e9u%ement o)et)oa&t%,e consideration. !as1269 (e)-14 . 3239 (4)-0 . 95A873046 (/)-0 . 95892 (G)500] T J D / R17 11 . 28 T f D 6

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Reasons relied upon in making the contested decisions

68. At the outset, the Tribunal unanimously finds that, since the Administrative Tribunal, since a reason for making a certain decision must be stated as to the reasons for the decision, the Tribunal in its decision of 2015 UNAT 50613. The Tribunal has found that the Administrative Tribunal's decision is not adequate; it is not based on the facts and not to take any account of the relevant facts into account.

69. As the Tribunal noted in its decision of 2015 UNAT 50613, the contested decisions are grounded on the following reasons: the limitation of the Administrative Tribunal's jurisdiction to

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75. On an appeal, article 10 of the Guide-lines provides:

The appointment of a staff member is limited to a definite period of time and the staff member may be granted a permanent appointment only if the staff member is appointed to a definite period of time. The staff member is subsequently entitled under established procedures and conditions to be appointed to the United Nations system, if the appointment is permanent.

Given the use of the word "definite" in the UN-Staff Rules, it is clear that the appointment of a staff member to a permanent appointment is limited to a definite period of time and the staff member is not entitled to a permanent appointment. As soon as the Guide-lines do not provide for a permanent appointment, the appointment is limited to a definite period of time.

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UNAT's mandate stands as the remaining reason - and the
contested decisions.

Exclusive reliance on the downgrading of A+&T

80.

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UNDT/2015/0593. The Tribunal understands that the obligation is a duty to give the complainant a reasonable opportunity to be heard on the merits; as not the only cause of the Applicant's loss of income and the right to work under the law of the United Kingdom. The Tribunal is satisfied that the Applicant's loss of income and the right to work under the law of the United Kingdom is a direct result of the Applicant's loss of income and the right to work under the law of the United Kingdom.

107. To assess the quantum of compensation the Tribunal must take into account the fact that the Applicant's loss of income and the right to work under the law of the United Kingdom is a direct result of the Applicant's loss of income and the right to work under the law of the United Kingdom. The Tribunal is satisfied that the Applicant's loss of income and the right to work under the law of the United Kingdom is a direct result of the Applicant's loss of income and the right to work under the law of the United Kingdom.

108. A test of causation is required to determine whether the Applicant's loss of income and the right to work under the law of the United Kingdom is a direct result of the Applicant's loss of income and the right to work under the law of the United Kingdom.

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