
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2016/057

Judgment No.: UNDT/2017/077

Date: 25 September 2017

Original: English

Before: Judge Alessandra Greceanu

Registry: New York

Registrar: Morten Albert Michelsen, Officer-in-Charge

Introduction

1. The Applicant, a Chief Supply Chain Management at the D-1 level, step 2, with the United Nations Organization Multidimensional Stabilization Mission in the challenges the following decisions:

recognize, implement and pay entitlements, following the evacuation of staff and the abandonment of Camp Faouar (Almet Al Faouar), Syria (the Headquarters of the United Nations Disengagement Observer Force UNDOF) on 15 September 2015 which arose consequential to:

- (i.) The outbreak of anti-government/pro-democracy protests in Syria in March of 2011, and the progression of this resentment against the government into a full-scale civil war (which continues through date) and the corresponding impact of the larger conflict on the UNDOF mission and its staff;
- (ii.) The abandonment of Camp Faouar (Almet Al-Faouar), Syria, and the evacuation of all staff (military and civilian personnel) on 15 September 2014 to Camp Zouani in the Occupied Syrian Golan [reference to annex omitted];
- (iii.)

security threat, which was assessed as 'substantial' by the Mission at the time [reference to annex omitted]. A mistake, which was recognized and subsequently corrected by the ICSC and OHRM through the reintroduction of an R&R entitlement on an 8 week cycle with effect from 14 August 2015.

(xiii.) Failing to ensure that staff were remunerated with

members who served in the Occupied Syrian Golan (Camp Zouani) from the date they were officially evacuated from their duty station in Almet Al-Faouar (Camp Faouar) i.e. 15 September 2014 until such time as they left the mission on reassignment elsewhere considering:

- a. That all affected staff were left in an indeterminate state for an extended period of time;
- b. That although staff were relocated from Camp Faouar) Syria to Camp Zouani on the Occupied Golan, which was not a recognized Duty Station, Israel Elsewhere entitlements were ordinarily applied to personnel in travel status at that location;
- c. Affected staff incurred extraordinary costs as a consequence of the evacuation (rental of accommodation, replacement of lost personal effects etc.);
- d. Salaries and entitlements (post adjustment etc.) continued to be paid at applicable Syrian rates, which did not reflect economic conditions in the Occupied Syrian Golan;
- e. It took almost a year before UN HQ NY informed the

not seem to be respected through the current processes of the system of Administration of Justice. The Applicant notes in particular that a complainant has a limited time frame within which to submit a complaint through the MEU and that the complainant does not always have access to the totality of information required to support his/her case. For example, in this instance if the Applicant had knowledge of the fact that the ICSC had made a decision to Temporary Classify the Camp Zouani duty station as early as 23 March 2015 the formulation of his case submission would have been entirely different as would the arguments attaching thereto. If that information had been available to the Applicant when he prepared his submission to the MEU, in February of 2016, it is very possible that the MEU's analysis might not have upheld the decision but found in his favour. Similarly, had the Applicant not prepared for the day when a decision would arrive that would finally present him with an opportunity of challenging the decision he would not have had access to a single record that was required in support of his submission. The absence of same would have severely limited the Applicant's ability to present his case and thus he would have been at a disadvantage before the MEU and the [Dispute Tribunal/Appeals Tribunal]. The Applicant submits that in light of his experience, with the previous case (UNDT 2009-064) and the present case (MEU1066-16/R), that there is a need to review the processes that are in place with a view toward ensuring that any complainant with a sustainable case is provided with the tools that would enable him/her to bring forth their case on an even footing with the Administration (which seems to have unlimited and enviable resources at its disposal).

3. In response, the Respondent claims that, for various reasons, the application is not receivable and that, in any event, it is without merit.

Factual ~~2~~]

side) and Syrian forces to remain east of Line B (the B side). The area in between

besides generating political difficulties on account of its name, would have adversely affected the financial interests of staff members.

17. On 29 June 2016, the Applicant filed the present application with the Registry in Nairobi, and it was registered as Case No. UNDT/NBI/2016/046.

18. By Order No. 341 (NBI/2016) dated 11 July 2016, the case was assigned to Judge Agnieszka Klonowiecka-Milart.

19. By Order No. 397 (NBI/2016) dated 19 July 2016, the Tribunal took note that, on 10 July 2016, the Applicant retained the service of the Office of Staff Legal Assistance to represent him in the present case and that on 17 July 2016, his Counsel filed a motion to amend his initial application. The Tribunal then ordered the Applicant to file an amended application no later than 1 August 2016 and the Respondent to submit a reply within 30 days of the date of receipt of the amended application. On 4 August and on 29 August 2016, the Respondent's Counsel requested the deadline to file the amended application be extended until 31 August and 14 September 2016, respectively.

20. On 31 August 2016, OSLA withdrew as Counsel from the present case and the Applicant requested the Tribunal to revert to the initial application on the merits that he submitted *pro se* on 29 June 2016.

21. On 7 October 2016, the Respondent filed the reply.

22. Following the decision taken at the Plenary of the Dispute Tribunal Judges held in May 2016, to balance the interests of the parties, Judge [redacted] was selected to be transferred to the Dispute Tribunal in New York.

23. By Order No. 453 (NBI/2016) dated on 13 October 2016, the parties were instructed to express their views, if any, on the transfer of the present case by 21 October 2016.

28. On 10 February 2017, the Respondent filed his response to Order No. 14 (NY/2017), stating, *inter alia*, that the case the Respondent considers that this case is not amenable for an informal resolution of this

29.

10 February 2017 submission and appended some additional documentation.

30. By Order No. 36 (NY/2017) dated 21 February 2017, the Tribunal instructed the parties to file their closing submissions based exclusively s9tifact,eact,eact,0055eact,4 12 Tf1 0 0 1 99.

absence of a clear understanding, and standard operating procedure, of how to implement the provisions of the SPM will continue to plague the Organization for years to come, and until such time when there is a clearly defined understanding in relation to how to react and respond to any of the risk mitigation or risk avoidance measures outlined in the SPM, and in relation to the relationship between the UNDSS Policy and staff rule 7.1 (it is noted that the Applicant indicated staff rule 107.1, but no such numbering exist any longer, and the correct reference is staff rule 7.1 today);

e. The ICSC had temporarily classified Camp Zouani as a Class C duty station effective 23 March 2015 . The argument that it was not implemented because it might generate political diffic rule 7.1

Designated Official ordered the remaining military and civilian personnel (including the Applicant as Officer-in-Charge) to vacate and abandon Camp Faouar on the morning of 15 September 2014 both of these terms are equivalent to evacuation, which is what the departure of all military and civilian staff from Camp Faouar amounted to. This movement, out of Syria, was executed under armed military escort, and it was watched over by the Israeli Defence Force;

g. In this connection, the Applicant does not recall seeing any communication from UNHQ (and he was the second most senior Officer in the Division of Mission Support for the duration of his service in UNDOF, and ordinarily Officer-in-Charge in the absence of the Chief of Mission Support) regarding the ICSC having temporarily classified Camp Zouani as a Class C duty

provided for the regularization of the status of staff and their conditions of service post evacuation from Syria on 15 September 2014. In doing so, the Administration:

- i. Ignored the plight of staff;
- ii. Contributed to the financial hardship that was being endured by staff;
- iii. Failed to properly apply and correctly implement instruction;
- iv. Did not perform in accordance with its duty and requirements to act fairly; transparently, and justly in its dealings with staff;
- v. Failed to address the issues at hand in a timely manner thereby impacting the rights of staff as well as causing anxiety and stress, indicating a lack of dealing in good faith with the affected staff members;
- vi. Failed to ensure institutional and personal accountability in compliance with all resolutions, regulations, rules, ethical standards and fundamental principles;

Israeli controlled Occupied Syrian Golan territory, which is legally recognized as an integral part of Syria but which is effectively beyond Syrian state control since the end of the 1967 Arab/Israeli War. The Applicant's movement, though couched as Alternate Work Arrangements and Relocation by the USG/DM was, in fact, an evacuation as defined in the SPM and, as such, security evacuation allowance should have been paid. The fact that the Applicant was paid 30 days of daily subsistence allowance (DSA) is not disputed, however, he along with all others, who were extracted from Camp Faouar on 15 September 2014, should have been paid security evacuation allowance until

Faouar facility. The security situation was critical at the time and unfortunately, the staff did not have the time or the opportunity to recover their personal belongings these were lost in consequence. In addition, millions of USD worth of equipment was abandoned, subsequently looted and then written-off the United Nations inventory. The Applicant left the Camp Faouar facility under duress to his great shame, abandoning members of the National Staff who had stayed with the team through the most difficult and darkest hours of UNDOF's history;

p. The terms vacate and abandon equate to evacuate, and if the existing security situation at the time and the circumstance of the movement out of Syria are not understood as an evacuation the definition of which is the immediate and urgent movement of people away from the threat or actual occurrence of a hazard then one is all at a loss to understand what constitutes an evacuation. The fact that subsequent correspondence from the Mission to UNHQ referred to the action taken as an activity under the Alternate Work Modalities framework or as relocation does not negate, annul or change the fact that UNDOF evacuated from Camp Faouar on the B side to the relative safety of Camp Zouani on the A side on 15 September 2014. The movement of staff, and the order to vacate and abandon09(a)4(T1 0 -)] TJQ25o vacate

correct since the fact is that the ICSC temporarily classified Camp Zouani as a class duty station, effective 23 March 2015 (a fact that has only recently come to light);

r. In his submission to the MEU, the Applicant did not argue that Camp Zouani was an established duty station with its own set of entitlements as of 15 September 2014. What he did proffer was an alternate to the payment of Security Evacuation Allowance, i.e., the possibility of considering the effective date of the Temporary Classification of the duty station as of 15 September 2014, the day on which the staff relocated from Camp Faouar. Obviously, the Applicant was not aware at

charged with implementing the Staff Rules and Regulations . The MEU submission detailed several instances where the Administration:

- i. Failed to correctly implement approved Policy Guidance;
 - ii. Failed to ensure institutional and personal accountability;
 - iii. Denied staff members their entitlements; and
 - iv. Failed to act in a timely manner.
- t. Alternative Working Modalities relocation and vacation are notions clearly defined in the SPM. It is inconceivable that any official could deviate from the promulgated definition, in interpreting and making a decision regardin

tfurther confirming a lack of dealing in good faith with the affected staff members;

Supply Chain Management with the United Nations Multidimensional Integrated Stabilization Mission in MINUSCA;

f. The Applicant received the same benefits and entitlements as all other staff members who moved from Camp Faouar on the B side to Camp Ziouani on the A side because of the deteriorating security situation on the B side. In fact, the Applicant received greater entitlements while he served on the A side and was paid the entitlements applicable to the B side than he would have had the A side been designated prior to 14 August 2015. The B side is classified as a Class E

e. The Dispute Tribunal has full authority to hear and render judgment on the application in conformance with staff regulation 11.1, and therefore, the submission is receivable;

f.

employment, and therefore, the submission is receivable;

g. The suggestion, by the Respondent, that the outcome of a management evaluation cannot be challenged is irrational bearing in mind that the process of management evaluation, in and of itself, is only the first in the formal system of Administration of Justice. In this regard, whereas all applicants presume that the management evaluation process will entail an objective and reasoned assessment as to whether the contested decision was made in accordance with the rules, and, whereas if it is determined that an improper decision has been made, m the decision is changed

that the management evaluation process will uphold an incorrect decision, as in this case, or that it may not provide an appropriate or acceptable remedy; therefore, in order for justice to prevail, the Applicant must have recourse to

submission to the Dispute Tribunal, he has provided evidence that renders the

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h.

before the UNCB as inferred by the Respondent. However, the Applicant did refer to the outstanding claim in his 29 June 2016 submission to the Dispute Tribunal simply because: (i) of its relevancy to the issue in dispute, particularly with regard to timeliness of action and non-conformance with the terms of his employment; (ii) the Administration was applying double standards; (iii) it pointed toward a pattern, whereby, once more the

legitimacy of his claim; (ii) the robustness of the submission before the Dispute Tribunal; (iii) failure of the Administration to perform in accordance with its duty and requirements to act fairly, transparently and justly in dealing with staff members; (iv) failure of the Administration to address the matter in a timely manner, indicating a lack of dealing in good faith; (v) the applicable law; and (vi) the competency of the Dispute Tribunal to pass judgement on the merits of his application.

Consideration

Receivability framework

35. As established by United Nations Appeals Tribunal, the Dispute Tribunal is competent to review *ex officio* its own competence or jurisdiction *ratione personae*, *ratione materiae* and *ratione temporis* (*Pellet* 2010-UNAT-073, *O'Neill* 2011-UNAT-182, *Gehr* 2013-UNAT-293 and *Christensen* 2013-UNAT-335). This competence can be exercised even if the parties do not raise the issue, because it constitutes a matter of law and the Statute of the Dispute Tribunal prevents it from considering cases that are not receivable.

36. The Dispute Tribunal's Statute and Rules of Procedure clearly distinguish between the receivability requirements as follows:

- a. The application is receivable *ratione personae* if it is filed by a current or a former staff member of the United Nations, including the United Nations

b. The application is receivable *ratione materiae* if the applicant is that is alleged to be in non-compliance with the terms of appointment or the contract of employment (art. 2.1 of the Statute and if the applicant previously submitted the contested administrative decision for management evaluation, where requested (art. 8.1(c)) of the Statute;

c. The application is receivable *ratione temporis* if it was filed before the Tribunal within the deadlines established in art. 8.1(d) (i) (iv) of the Statute and arts. 7.1-7.3 of the rules of procedure;

d. It results that in order to be considered receivable by the Tribunal an application must fulfill all the mandatory and cumulative requirements mentioned above.

37. The Tribunal further notes that the Applicant filed the present application individually, however, he is making reference to all UNDOF staff members allegedly affected by the contested decisions. The Tribunal underlines that, pursuant to art. 3 of an application before the Tribunal can only be filed by the individual effected, meaning by a current or former staff member or in the name of an incapacitated or deceased staff member.

Receivability *ratione personae*

38. The Applicant is a staff member having a permanent appointment, serving currently with MINUSCA and, in accordance f409.63 220.97 Tm[(a)4(e)4(a)4(se)3(d st)-12(a)4(ff)6(men

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Judgment

Effects annulled . The Tribunal notes that, in the management evaluation request timely complete review and process settlement of a claim for compensation for loss of personal effects. The request did not cover the decision made by the Controller on 2016. Furthermore, the Tribunal notes that, as result from the documents, on 14 June 2016, the Applicant filed a separate request for management evaluation of the 16 decision. Following the management evaluation of this decision, on 17 October 2016, the Applicant filed a separate appeal registered under Case No. UNDT/NBI/2016/067, which was later transferred to New York and registered under Case No. UNDT/NY/2016/065. The sitting Tribunal concludes that,

The decision pertains to a refusal by the Administration to recognize, implement, and pay entitlements, which arose consequential to:

- (i). The relocation/evacuation of staff from Camp Faouar, Syria on 15 September 2014 to Camp Zouani in the occupied Syrian Golan, and
- (ii). The declaration by the International Civil Service

hardship classification with the application of the Post Adjustment Index for Israel to the duty station.

On the merits

Applicable law

45. ST/AI/2012/1 (Assignment grant) provides, as relevant, the following (emphasis in the original):

Purpose

1.1
eligible staff

[

1.7 Pursuant to section 1.6 above, a staff member shall be eligible

ST/AI/2012/1 8 12-32543 is not entitled to the DSA portion of the grant. Only the lump-sum portion of the grant shall be paid in accordance with sections 3 and 6.2 (b).

Reduction in period of service at the duty station

6.4 In cases where the staff member has not completed the period of service, for reasons as noted in section 6.7, in respect of which the assignment grant has been paid, the grant shall be adjusted proportionately and recovery made according to the provisions of section 6.6.

6.5 The DSA portion of the grant paid on arrival at the duty station shall normally not be recoverable.

6.6

attributable to the ongoing conflict in the Syrian Arab Republic and despite a number of significant violations of the Disengagement of Forces Agreement of 1974 by Israeli and Syrian forces, which are set out below. The heavy fighting in the area of limitation and in the area of separation between the Syrian Arab armed forces and armed members of various armed groups, including the Nusra Front which had started late in August as detailed in my last report (S/2014/665) intensified during the reporting period. The significant deterioration of the security situation necessitated the temporary relocation, between 13 and 15 September, of UNDOF personnel and military observers and equipment of Observer Group Golan of the United Nations Truce Supervision Organization (UNTSO) from a number of the remaining positions in the area of separation to the Alpha side. The Syrian armed forces carried out military activities and security operations against armed groups, often in response to offensives carried out by the armed groups. Inside the area of separation, the presence of the Syrian armed forces and military equipment, as well as any other armed personnel and military equipment, is in violation of the Disengagement of Forces Agreement. As underscored by the Security Council in its resolution 2163 (2014), there should be no military activity of any kind in the area of separation.

3. In the context of the clashes between the Syrian armed forces and armed groups, there were several incidents of firing from the Bravo side across the ceasefire line. On 4 September, United Nations personnel at a temporary observation post on the Alpha side observed several impacts on the Alpha side; the point of origin was not observed. The Israel Defense Forces (IDF) informed UNDOF that two rounds had impacted on the Alpha side. On 14 September, personnel at United Nations position 22 reported fire, which was assumed to have been a tank round originating from the Bravo side, landing north-west of their position on the Alpha side. On 23 September, in the morning,

6. On 12 September, armed groups, including members of the Nusra Front, using two tanks, artillery and heavy mortars, launched an attack against Syrian Arab armed forces positions along the main road connecting Camp Faouar and Camp Ziouani, inside the area of separation as well as in New Hamidiyeh. The Syrian armed forces retreated from their positions towards Al Baath, heavily bombarding the positions they vacated. The armed groups in turn took control of the area up to the western outskirts of Al Baath. At this stage, UNDOF activated its *temporary relocation* assets. The plan foresaw that all military and civilian personnel and essential assets would be relocated in a phased manner, from 12 to 17 September, to the Alpha side. As a first step in the relocation, UNDOF *temporarily relocated* personnel from United Nations positions 25, 32 and 62 and observation post 72 to Camp Faouar; the following morning, the personnel *relocated* to Camp Ziouani. On 15 September, heavy fighting broke out between the Syrian Arab armed forces and armed groups north of the main supply road in the area of separation. During the course of the day, the Syrian armed forces conducted a number of airstrikes in the areas of Jabbata, Ufaniyah and Tal al-Kurum in the area of separation. During the morning of that day, the armed groups took control of observation post 72 and attacked Terese Hill, to which the Syrian armed forces responded with heavy artillery, mortar and tank fire. As the fighting threatened to isolate Camp Faouar, UNDOF decided to advance the final stage of its *relocation* plan by two days and vacate Camp Faouar that day. During the relocation on 15 September, all personnel from Camp Faouar as well as United Nations positions 10, 16, 31 and 37 and observation post 71 were relocated temporarily to the Alpha side. One day prior, the Force Commander had briefed the Senior Syrian Arab Delegate about the UNDOF plans to vacate Camp Faouar. The relocation took place without incident and all UNDOF personnel safely reached the Alpha side.

19. Further to the Security Council presidential statement of 19 September 2014, the Department of Peacekeeping Operations, in coordination with UNDOF, held consultations with the parties to the Disengagement of Forces Agreement on the necessary steps to maintain the ability of UNDOF to carry out its mandate. The consultations included options for monitoring the ceasefire and the separation of forces even under circumstances when security conditions constrain UNDOF from fully operating on the Bravo side. The Department held consultations with the Permanent Missions of

reconfiguration and activities of UNDOF. A senior delegation from the Department visited the Syrian Arab Republic and Israel from 28 September to 4 October to undertake further consultations with respective officials. In addition, a planning team comprising officials from the Department of Peacekeeping Operations and the Department of Field Support visited the UNDOF base on the Alpha side, Camp Ziouani, in support of these efforts. Troop-contributing countries were kept informed of these consultations.

21. UNDOF has continued discussions with the parties on some of the practical arrangements to be put in place, including the establishment of the mission headquarters in Damascus, crossing procedures between the Alpha and the Bravo sides in the absence of the established crossing at Quneitra, and the use of technology to offset the loss of situational awareness in the area of separation, as well as additional locations required, including a logistics hub on the Bravo side and positions for observing the ceasefire line on the Alpha side.

22. In considering the way forward, the Department and UNDOF were informed by the situation on the ground as well as consultations with the parties. With the ultimate aim of returning to the area of separation when the security situation allows and based on the key assumption that the security situation on the Bravo side, in the foreseeable future, would continue not to permit UNDOF to return fully to the area of separation, the option being pursued would entail a short-term temporary reduction of the UNDOF troop strength to 750 military personnel and redeployment of up to 200 personnel. In addition, further to the currently manned positions of UNDOF and Observer Group Golan, there would be a requirement to establish new United Nations positions west of the ceasefire line. This interim configuration would allow UNDOF to continue to monitor, verify and report on violations of the Disengagement Agreement and exercise its critical liaison functions with the parties, particularly in preventing

30. I am gravely concerned about the developments in the area of separation that forced UNDOF to take the decision to temporarily relocate from the Bravo to the Alpha side. As reported in my last report to the Security Council (S/2014/665) these developments saw armed groups, including members of the listed terrorist organization, the Nusra Front, enter into direct confrontation with UNDOF, abducting 45 of its peacekeepers and confining 72 others in two United Nations positions. In the two weeks following those events, sustained heavy fighting between the Syrian armed forces and armed groups came so close to the UNDOF headquarters in Camp Faouar and other positions in the central area of separation that UNDOF had to relocate its personnel, thereby significantly reducing its ability to carry out its mandate as agreed by the parties to the 1974 Disengagement of Forces Agreement. Any hostile act against United Nations personnel on the ground, including threatening their physical safety and restricting their movement and the direct and indirect firing at United Nations personnel and facilities by anyone, is unacceptable.

31. Armed opposition groups and other armed groups have expanded the area under their control in the area of separation, and remain present along the section of the main road connecting the two UNDOF camps. The crossing between the Alpha and the Bravo sides remains closed. It is critical that countries with influence continue to strongly convey to the armed groups in the UNDOF area of operations the need to cease any actions that jeopardize the safety and security of United Nations personnel on the ground, including firing at peacekeepers, threatening and detaining them, and to accord United Nations personnel the freedom to carry out their mandate safely and securely.

32. The primary responsibility for the safety and security of United Nations personnel in the areas of separation and limitation on the Bravo side rests with the Government of the Syrian Arab Republic. I welcome the assistance provided by both parties in the safe and successful temporary relocation of UNDOF personnel. I note the assistance provided by the Government of the Syrian Arab Republic in facilitating the provision of essential supplies in support of the Force to ensure that it continues implementing its mandate safely and securely. It is imperative that respect for the privileges and immunities of UNDOF and its freedom of movement be preserved. The safety and security of UNDOF personnel and Observer Group Golan military observers must be ensured.

35. Both parties have stated their continued commitment to the Disengagement of Forces Agreement and the presence of UNDOF. It remains critical that both sides work through UNDOF to contain any incidents that occur along or across the ceasefire line. The mandate of UNDOF remains an important element in ensuring the stability of the region. UNDOF is undergoing a reconfiguration to adjust the structure and size of the mission as necessary to the current circumstances while at the same time maintaining the required strength and capabilities to return to vacated positions when the security situation allows. In accordance with its mandate, UNDOF will continue to use its best efforts to monitor the ceasefire between Syrian and Israeli forces and see that it is observed, albeit in increasingly challenging and difficult circumstances.

48. Of relevance to the present case, the SPM (i.e., the UNSMS Security Policy Manual), Chapter IV, sec. D, provides as follows (emphasis in the original):

B. Purpose:

2. The purpose of this policy is to lay out the parameters of measures to avoid risk as part of Security Risk Management, including alternate work modalities, relocation and/or evacuation, and to clarify the roles and responsibilities of relevant United Nations Security Management System actors in these decisions.

C. Application/Scope:

3. The policy is applicable to all individuals covered by the United Nations Security Management System, as defined in Chapter III of the Security Policy Manual

D. Conceptual Framework:

4. Security Risk Management is the fundamental United Nations tool for managing risk. The Security Risk Assessment assesses the level of risk of specific threats to the United Nations. Based on the Security Risk Assessment, different security measures may be implemented to reduce the level of risk to acceptable levels and enable the UN to continue operations.

5. One security risk management option is to avoid risk by temporarily removing persons or assets from a e

49. The SPM, Chapter VI, sec. A, para. 8, further provides that (emphasis in the original):

8. If the staff member is evacuated to the destination authorized
by the Under

Nations System Staff and Eligible Family members on

52. It results that the movement from Camp Faouar (the B side) to Camp Ziouani (the A side) was a relocation, and the Applicant was therefore not entitled to a security evacuation allowance pursuant to the SPM in Chapter VI, sec. A, para. 8, as such allowance is only paid to staff members who are evacuated and not to those who are relocated.

Assignment grant

53. The Tribunal notes that, as clearly results from ST/AI/2012/1, secs. 1.1 and 1.2, the assignment grant consists of two elements: a daily subsistence allowance and a lump-sum portion. As follows from the evidence, on 23 March 2015, the OHRM requested the ICSC to classify Camp Ziouani on the A side on a temporary basis.

54. By memorandum dated 29 May 2015, the ICSC informed the

Mobility element of Mobility Hardship Allowance (MHA)
(where applicable)

Hardship Allowance

Non-removal allowance

Non-family allowance (where applicable)

Rest and Recuperation (R&R)

Education Grant/Reverse Education grant (where
applicable)

Home Leave

Family visit (where applicable)

(b) International staff of UNDOF received the following benefits and
entitlements after 14 August 2015:

One Time - Assignment Grant (30 days DSA, one month
salary and one month post adjustment)

Salary

Post Adjustment

Dependency allowance (where applicable)

Mobility element of MHA (where applicable)

Hardship Allowance

Non-removal allowance

Non-family allowance (where applicable)

R & R

Rental Deduction (for those assigned to Damascus duty
station)

Danger Pay (for those assigned to Damascus duty station)

Education Grant/Reverse Education grant (where
applicable)

Home Leave

Family visit (where applicable)

categorized the A side as a temporary duty station, category C . In this regard, the
, stated in his 10 February 2017
closing statement, that:

[T]he Applicant is not entitled to the retroactive payment of a higher rate of post adjustment. Once Camp Ziouani was classified as an official duty station on 14 August 2015, the Applicant had left UNDOF to serve with MINUSCA. In addition, while the Applicant served with UNDOF in Camp Ziouani, he continued to be remunerated

This was to his advantage. Granted, the post adjustment multiplier for Camp Faouar was lower than the post adjustment multiplier for Camp Ziouani, once it was designated as a
August 2015. However, the higher hardship and non-family hardship allowances applicable to Camp Faouar, a category
resulted in an overall higher salary for the Applicant.

59. st adjustment is therefore to be rejected.

Financial hardship and emotional distress

60. Regarding compensation for financial hardship and emotional distress, the Applicant states as follows in his application:

The Applicant seeks compensation, in an amount of no less than three (3) months net base pay as restitution for the financial hardship incurred as a result of the Administrations omissions.

The Applicant seeks compensation of no less than three (3) months net base pay in respect of the delay's and lack of dealing in "good faith' as amends for the anxiety and the physical and emotional distress, and stress that has resulted from unreasonable delays and the Administrations non-compliance with the terms of his appointment.

61. The Tribunal considers that, pu
Statute, any compensation claim for financial hardship and/or emotional distress must be substantiated by evidence (see also the Appeals Tribunal in, for instance, *Kallon* 2017-UNAT-742). In this regard, the Tribunal considers that the Applicant has not

