

Introduction

1. The Applicants contest the “unilateral change in the individual workload standards for translation and self-revision” as decided by the Under-Secretary-General (“the USG”) for the Department for General Assembly and Conference Management (“DGACM”).
2. The Respondent contends that the applications are without merits.
3. In the Appeals Tribunal’s

- b. Was the contested decision, namely to increase the daily workload requirement of self-revision services to 6.4 pages, a lawful exercise of the USG's discretionary authority?
- c. Did the process leading up to the contested decision follow proper procedure?

The Tribunal's limited scope of review

9. The Appeals Tribunal has generally held that the discretion of authority of the Administration is not unfettered. As the Appeals Tribunal stated in its seminal judgment in *Sanwidi* 2010-UNAT-084, at para. 40, “when judging the validity of the exercise of discretionary authority, ... the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate”. This means that the Tribunal “can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse”.

10. The Appeals Tribunal, however, underlined that “it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-

arbitrariness and lack of proportionality are some of the grounds on which tribunals may for good reason interfere with the exercise of administrative discretion” (see *Sanwidi*, para. 38).

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its implications on resources, but did not mandate the particular mode of implementation decided on by the Respondent”. The “absence of any objection by [the General Assembly] or even taking note of something does not indicate approval, particularly in the absence of important information”:

b. The “new documentation” is not relevant, because “the Applicants do not have standing to speak on behalf of the General Assembly and that the resolution entails implied approval of the contested decision, the Respondent's arguments are misplaced”. Requesting “implementation of the revised productivity standards by the Assembly does not entail a blanket endorsement of the proposals of the DGACM Working Group”, and no “authority is cited for the Respondent’s assertion that in taking note, the absence of objections by the ACABQ implies a mandated approval”, which is “irrelevant to the decision being contested, which occurred some two years prior to when these reports and resolutions took place”. A/RES/77/262 “in particular, coming as it does two years after the contested decision, cannot be deemed to have retroactive effect”;

c. In spite of “repeated requests for meaningful departmental consultations on the technical and practical difficulties in implementing these proposed changes, no agreement was reached and a planned implementation date of the first working day of January 2023 was set by DGACM for the full implementation of far-reaching changes that went far beyond the increase in nominal workload standards”. While “wrongly claiming staff had been duly consulted, the USG/DGACM proceeded to report to ACABQ in August 2022 that the new changes, including to the application of reprise (recycled text), would proceed”. The ACABQ “took note of this report without further comment”, and

evaluation ... by unilaterally changing their conditions of service”. This increase in the workload requirements “for self-revisers was neither reported to nor approved by the General

of staff is deemed no longer satisfactory, and staff members can be and are fired for this reason”;

f. The Applicants are “not contesting the decision of the General Assembly to alter the page requirement for translation services from 5 to 5.8 as a policy and budgetary guideline, but [they are] challenging the implementation measures introduced by the Department that go beyond that decision and impose them individually and arbitrarily on all translation staff”. While the DGACM Working Group “did not change the workload standard approved by the General Assembly of 5.8 pages per day, it went beyond the resolution and expanded the page workload for translators to 5.8 and for self-revisers to 6.4 (this figure had never been reported to or approved by the [General Assembly])”. Even so, “the workload standard arguably ought to be 5.8 pages for everyone, not 6.4”. DGACM had “neither General Assembly endorsement of this change nor any empirical study to support it”. It appears “to have been extrapolated from a claim to increase all workloads by 16% which was never the stated intention of the resolution”.

g. The “imposition of new standards of performance assessment, including an unwarranted extrapolation of the increase to self-revision that was not approved by or even reported to the [General Assembly], constitutes an adverse administrative

17. The Respondent, in essence, submits that the USG acted within the scope of his authority when taking the contested decision.

18. The essential point of the Applicants' case is that since the General Assembly in resolution 75/252 only increased the workload standard for the translation services, the USG was not allowed to do the same for self-revisers at the same time.

19. Regarding the background for the contested decision, the Respondent explains, *inter alia*, that,

a. The USG arrived “at the contested decision following a rigorous process which included convening a Working Group from January until March 2021 to conduct a detailed study of workloadW*nBT/F1 12 Tf1 0 0 1 208.73 491.23 Tm0 g0 G[()] TJETQ

28. In principle, the Tribunal agrees with the Applicant

36. Accordingly, the Tribunal finds that the USG followed proper procedures when taking and implementing the contested decision.

Conclusion

37. The application is rejected.

(Signed)

Judge Joelle Adda

Dated this 26th day of January 2023

Entered in the Register on this 26th day of January 2023

(Signed)

Morten Michelsen, Officer-in-Charge, New York