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**UNITED NATIONS APPEALS TRIBUNAL**  
**TRIBUNAL D'APPEL DES NATIONS UNIES**

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Judgment No. 2023-UNAT-1318



**Benedictine Desbois**  
**(Appellant)**

**v.**

**Secretary-General of the United Nations**  
**(Respondent)**

**JUDGMENT**

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Before:	Judge John Raymond Murphy, Presiding Judge Graeme Colgan Judge Martha Halfeld
Case No.:	2022-1686
Date of Decision:	24 March 2023
Date of Publication:	11 April 2023
Registrar:	Juliet Johnson

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Counsels for Appellant: Julia Kyung Min Lee, OSLA  
Dorota Banaszewska, OSLA

Counsel for Respondent: Angélique Trouche

**JUDGE JOHN RAYMOND MURPHY, PRESIDING.**

1. Ms. Benedictine Desbois, a former staff member with the United Nations Environment Programme (UNEP), contested the decision of the Administration to impose on her the disciplinary measure of separation from service, with compensation in lieu of notice and without termination indemnity, for physical assault (contested decision).
2. By Judgment No. UNDT/2022/014<sup>1</sup> (impugned Judgment), the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) dismissed Ms. Desbois' application.
3. Ms. Desbois lodged an appeal of the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).
4. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

**Facts and Procedure**

5. At the time of her separation from service, in January 2019, Ms. Desbois was employed as a Programme Management Assistant at the G-6 level in UNEP, in Paris, France. She commenced employment with the Organization in March 2003.
6. It is alleged that on 25 November 2016 at a party held at the UNEP office in Paris, at which alcohol was consumed, Ms. Desbois became involved in a heated conversation with a colleague, M.K., and assaulted her in the presence of two other staff members, S.K. and E.K. M.K. alleged that Ms. Desbois shouted at her, pushed her, and slapped her in the face. The confrontation occurred in the context of an argument about work-

that M.K. had been “extremely aggressive” and pushed her. She maintained that she “had no choice than to respond to defend” herself.

8. On 28 November 2016, M.K. again reported the incident “on 28 November 2016, M.K. again reported the incident”

14. The UNDT carefully reviewed the testimony of the witnesses who testified before it as well as the documentary evidence, particularly the investigation report (NV)-1.3.6.2 (o)-0352 --4.6 (ar)-0.8 (1-4.4 (

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23. Ms. Desbois argues further that M.K.'s exaggeration of the assault, her improbable denial of using vulgar language and her claim that she suffered pain in her knees after the assault (when she perhaps had a previous existing condition for which she took medication) renders her evidence less credible.

24. Ms. Desbois maintains that the UNDT erred in failing to accept her submission that M.K. and S.K. colluded to align their stories, when the evidence suggested that they were in contact during the investigation and probably shared information.

25. Ms. Desbois further submits that the UNDT erred in attaching weight to the medical report of Dr. C. noting that M.K.'s right cheek was sensitive to touch (sh)(o)n 6578484n .825ahe (ti)2.7 9 (s,)1.6 (C

30. The Secretary-General submits that despite purported inconsistencies and the possible exaggeration of its nature and details as alleged by Ms. Desbois, there is clear and convincing evidence that Ms. Desbois slapped M.K. The testimonies of M.K., S.K. and E.K. convincingly confirm that the slapping in fact occurred. This is corroborated further by the medical evidence which Ms. Desbois did not challenge before the UNDT in any meaningful way.

31. The Secretary-General argues that the disciplinary sanction was proportionate and entirely consistent with past practice and the jurisprudence of the UNAT.

32. The Secretary-General maintains that Ms. Desbois' due process rights were not violated and that the failure to disclose some of the records was cured during the trial before the UNDT. Ms. Desbois had a proper opportunity to review the evidence that had not been shared with her during the investigation and, in any event, the assault was established by clear and convincing evidence before the UNDT.

33. The Secretary-General accordingly requests that the appeal be dismissed, and the impugned Judgment be affirmed.

### **Considerations**

34.

THE UNITED NATIONS APPEALS TRIBUNAL

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**Judgment**

43. The appeal is dismissed, and Judgment No. UNDT/2022/014 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 24<sup>th</sup> day of March 2023 in New York, United States.

*(Signed)*

Judge Murphy, Presiding

*(Signed)*

Judge Colgan

*(Signed)*

Judge Halfeld

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