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

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Judgment No. 2022-UNAT-1308



**AAG  
(Appellant)**

**v.**

**Secretary-General of the United Nations**

Counsel for Appellant:      Monika Ona Bileris

Counsel for Respondent:      Amanda Stoltz



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19. On 30 October 2020, the Management Evaluation Unit (MEU) issued its decision upholding the contested reassignment decision.
20. On 1 November 2020, Appellant was placed in the post of Chief of Logistics, TMICC.
21. On 23 November 2020, Appellant filed an application with the Dispute Tribunal contesting the reassignment decision. She sought rescission of the decision, a return to her post in Brindisi or similar placement, and moral and actual damages.
22. On 23 November 2020, Appellant also filed an application with the Dispute Tribunal challenging the decision to place her on SLWFP.
23. On 2 December 2020, the MEU rendered its decision on her request for review of the SLWFP, concluding that this was a legitimate measure aimed at maintaining the status quo.
24. On 26 January 2021, the Dispute Tribunal granted the joint motion of the parties to consolidate the two cases before it.

UNDT Judgment

25. In her submissions to the Dispute Tribunal, Appellant alleged that the Organization had abused its authority in failing to return her to Brindisi and reassigning her to the TMICC post in Entebbe. She claimed that the decision was tainted by procedural and substantive irregularities, motivated by personal prejudice and bias, and that she was not treated with respect and dignity, including by her placement on SLWFP.
26. Respondent submitted that the Secretary-General acted within his broad discretion to reassign Appellant to Entebbe to lower the risk to her personal security, and that this position was at the same level and grade and commensurate with her skills and competencies. Respondent further rejected the notion that the decision was malicious, arguing that it was reasonable and taken in accordance with the Organization's duty of care to Appellant to protect her from security risks.
27. On 30 November 2021, UNDT rendered the impugned Judgment, denying both of Appellant's applications. The Dispute Tribunal concluded that the Secretary-General had properly exercised his discretion to reassign Appellant in light of the assessments that there was a high risk

to Appellant's personal safety in Brindisi.<sup>13</sup> In addition, the UNDT rejected Appellant's claims that the threats against her were not adequately investigated and noted that the investigation followed the relevant UN policy manual. The UNDT also pointed to the active cooperation of the Italian authorities in this investigation and their support of the recomm ts0.8 ( )]TJ252 (t)8.0140Tn.ihert o2.73w5ce

out of MONUSCO, the Tribunal found that SLWFP was the only viable option to maintain the status quo pending the outcome from MEU.<sup>21</sup>

32. The Dispute Tribunal observed that, in accordance with UNAT jurisprudence, it is permissible to place a staff member on SLWFP in between assignments. Given that Staff Rule 11.2(d) allows 45 days for management evaluation, the UNDT concluded that placing Applicant on SLWFP for two months was reasonable while they awaited the MEU recommendation. The Dispute Tribunal also determined that Appellant had not suffered any harm as she received full salary and all benefits during this two-month period.<sup>22</sup>

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44. She further disputes the UNDT's finding that the SLWFP did not cause her any harm, contending that this decision fed the rumor mill that Appellant was unfit for service.

**The Secretary-General's Answer**

45. The Secretary-General responds that the UNDT correctly concluded that the reassignment decision was lawful as it was within the discretion of the Administration to weigh security and operational concerns when deciding where to assign a staff member. Even if it was not the only way to lower the risk to Appellant's safety, the UNDT did not err in finding that the decision was properly motivated, taken in accordance with mandatory procedures, and that Appellant was reassigned to a position of the same grade, level, title, and conditions of service.

50. The Secretary-General argues that Appellant's claim that there were no ongoing threats to her at the time of the reassignment decision are meritless, as the UNDT correctly found. Moreover, even if there were no new threats, that would not render the reassignment decision unlawful.

51. As to Appellant's argument that she should have been allowed to resume her post in Brindisi but work remotely, the Secretary-General urges this Tribunal to reject this argument given that it is raised for the first time on appeal. Moreover, the UNDT was tasked with reviewing the lawfulness of the reassignment decision – and not whether there were alternative options that might have been better in Appellant's view.

52. The Secretary-General submits that the UNDT correctly concluded that Appellant's argument (g) 57 (the Adm (n) str) 4 (r) 36 (u) -63.1 .0 (ppel) 4.9 (l) 4.8 (a) 4. (d..5 me) -4.4 (ntsb9 ( bet.) ]TJO

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61. The key purposes of the considerations in a judgment are to: i) allow the parties to understand the reasons behind the tribunal's determinations, so that they could possibly

challenge them (n(4)1. ICJ Tw 20.863(s)-0.7 Tw 1.10949[(undot/Spa (e)-4.4 (r).6 (t)-5.8 (o)-3.7 ( b)-3.9 (e)-

64. Only through a generous interpretation favouring AAG can the Appeals Tribunal consider that the relief claimed indirectly relates to the reassignment, since her placement into another P-5 or D-indanother3.7 wjETq527.34 20./Headerf3q 10.(e)-3

unlawful because: i) the TMICC position in Entebbe was not suitable for her and would result in a regression in her career; ii) the security reason for not returning her to her post in Brindisi was outdated and not contemporaneous with the contested decision; iii) she was treated differently from the other staff member who had also received a death threat, since he was allowed to work at his own post remotely from his home country, whereas she was removed from her post.

69. Given the circumstances of the case, the Appeals Tribunal finds that the UNDT correctly determined that the measures taken by the Organization ensured AAG's safety.<sup>26</sup> In this regard, Staff Regulation 1.2(c) establishes a duty of care of the Organization towards its staff members. It stipulates the authority of the Secretary-General to assign staff members to any of the activities or offices of the United Nations. In exercising this authority, the Secretary-

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level of anxiety among staff at large, given the uncertainty associated with the outcome of this process. Staff concerns were compounded by the ongoing discussions surrounding the Global Service Delivery Model and the possible relocation of the Master Data Management function away from Brindisi. All of these events contributed to growing anxiety and concern from the workforce that significant personnel cuts would be experienced.

Although no jobs have been lost, various internal changes have resulted in the reprofiling and reclassification of a small number of positions, and consequently, increased anxiety amongst staff at large and particularly in the Supply Chain Service.

As a possible result of this, some individuals in management have received a substantial number of anonymous, threatening correspondence alleging deceit, incompetence, misconduct and abuse of authority. All such allegations have been

applying to the Tribunal



75. This first PSRA reached the conclusion that the security risk for AAG was high and therefore the final recommendation was that AAG should not operate or reside in the Brindisi area until further notice. Specifically, the PSRA noted that “(b)ased on the pattern analysis of past threats and incidents, the predictive analysis leans to a continued escalation of threats. The safety and welfare of (AAG) is in question. Both local Italian authorities and Base authorities should be notified and consulted to assist in the risk mitigation of the growing threats. Additionally, due to the recent threat and the connotations that such a threat in Italy manifests, it would be prudent for (AAG) not to operate or reside in the Brindisi area until further notice, to reduce her visibility and opportunities for personal targeting by the person/s who is/are sending these threats”.<sup>34</sup>

76. The second PSRA, dated 19 June 2020, revealed that the threats continued during the time AAG was in her temporary reassignment in MONUSCO. Specifically, it described the background and the situation as follows:

(AAG) is currently on a temporary assignment in MONUSCO (Congo). She was initially requested by MONUSCO for a period of three months commencing from late September/early October 2018. Subsequently, she was selected on a temporary assignment (following a competitive, temporary job opening) from January 2019. It was a competitive opportunity for which (AAG) was selected. Her temporary assignment ends on 30 June 2020 and she is expected return to her post at UNGSC Brindisi by 01 July 2020. She has not made any arrangements for a residence in Brindisi. She is planning to stay alone at the duty station.

There have been direct threats made against (AAG) associated with her employment at UNGSC, during her work at UNGSC Brindisi as well as after she left UNGSC for MONUSCO. (...)

During the period September 2016 - July 2019, (AAG) routinely received personally directed threats from unknown individual(s). Whether or not these actions were intended only to intimidate or harass, the explicit threat suggested by a bullet sent

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from invidious or improper motivations and are based upon the exercise of reason and proper judgment. AAG has failed to establish that the contested decision was tainted by improper motives or in any way unlawful. The undisputed facts sufficiently demonstrate that there was a rational connection between the information available to the manager, the reasons given for the contested decision and the purpose for which the decisions were taken. Moreover, AAG also acknowledged that the TMICC post is at the same grade and level as her previous one in Brindisi.

86. Finally, with regard to the SLWFP, AAG argues that she was never informed of how long this would last and only knew about it or its extension through an automatic message from UMOJA. AAG's arguments are groundless, as is her reliance on the UNDT Order No. 165 (NBI/2020) issued on 1<sup>st</sup> September 2020 which considered the reassignment unlawful. As discussed above, the UNDT Order, being only a prima facie appreciation of the facts and suspension of the reassignment decision pending management evaluation, was no longer effective following the issuance of the management evaluation decision itself. Moreover, the Order was granted as requested, that is, "pending management evaluation", which was the duration of the SLWFP "until further notice" communicated to her by means of the e-mail dated 2 October 2020.<sup>44</sup>

87. AAG has then failed to establish any effort to establish (ng ma).1 (ts)-0.7 (t)-5. 7 (o)

**Judgment**

89. AAG's appeal is dismissed, and Judgment No. UNDT/2021/142 is hereby affirmed.