

110th Session

Judgment No. 2975

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Miss K. E. G. against the World Health Organization (WHO) on 6 October 2008 and corrected on 17 October 2008, WHO's reply of 19 January 2009, the complainant's rejoinder of 24 February, corrected on 5 March, and the Organization's surrejoinder of 4 June 2009;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to order hearings, for which neither party has applied;

Considering that the facts of the case and the pleadings may be summed up as follows:

A. The complainant, a British national born in 1974, entered the service of WHO in May 1998. She joined the programme known as UNAIDS – a joint and co-sponsored United Nations programme on HIV/AIDS, administered by WHO – in January 2002 as a Secretary at grade G.4 in the Social Mobilization and Information Department under a short-term contract which was renewed from time to time. Following a competition, she was granted in June 2005 a one-year fixed-term contract as Assistant in the Information Centre at grade G.5. That contract was extended for an additional year until

30 June 2007 and she was then employed under short-term contracts until she separated from service on 31 December 2007.

In October 2004 the complainant wrote to her second-level supervisor to report what she considered to be harassing behaviour on the part of Mr B., her first-level supervisor. On 6 December 2005 she lodged a formal complaint with the WHO Headquarters Grievance Panel alleging that, for a period of more than two years, she had been subjected to sexual, psychological and verbal harassment by Mr B. She was asked to provide a copy of it to the Office of Internal Oversight Services (OIOS), which she did. In a memorandum dated 16 February 2006 to the Director of OIOS, she reiterated that she had been harassed by Mr B. On 17 February 2006 an external firm was commissioned to conduct an investigation into her allegations, but its experts could not interview Mr B. and were thus unable to provide a complete report to the Director of OIOS. By a letter of 27 June 2007 the complainant was informed that the Grievance Panel was ready to proceed with its investigation and that, as Mr B. had challenged the receivability of her complaint, it would consider only that issue at its first meeting. The Grievance Panel proposed to appoint an external expert to assist it with its investigation and on 24 January 2008 the complainant was invited to provide her observations in that respect. An exchange ensued between the complainant and the Grievance Panel regarding, inter alia, the appointment of the expert. On 28 February 2008 she was informed that the Grievance Panel had determined that her complaint was receivable and that a full investigation would commence. However, on 30 May she was informed that the substance of her complaint had not been examined due to Mr B.'s serious medical condition. In May 2008 the Grievance Panel provided the Director-General with a status report regarding its investigation.

Meanwhile, in the autumn of 2005, the first phase of a review of the functions and structure of UNAIDS' Advocacy, Communication and Leadership Department (hereinafter "the ACL Department") was carried out by a consulting firm, which issued its report in October 2005. In an e-mail of 19 October 2005 to Mr B., the complainant

requested that her terms of reference be updated to reflect her current duties and that a classification review of her post be conducted. Mr B. replied the same day, informing her that he expected such an update to occur after the review of the ACL Department had been completed. In December Mr B. was placed on sick leave and with effect from 14 December 2005 the complainant was designated as team leader of the Distribution Team. The second phase of the review of the ACL Department was completed in March 2006. In a memorandum of 1 May 2006 to her then first-level supervisor, the complainant again requested a classification review of her post and she appended an updated job description. This request was submitted to the Director of the ACL Department on 12 May. With effect from 27 June 2006 Ms A. was appointed Chief of the Information Centre, ad interim, and from that date until 16 December 2006 she acted as the complainant's functional supervisor while the Director of the ACL Department assumed managerial responsibility over her duties. The final phase of the department review was completed in October.

Between 7 and 17 September 2006 the complainant was absent on sick leave and again as from 10 November 2006. She had exhausted her entitlement to sick leave with full pay by 19 April 2007 and she was then placed on sick leave under insurance cover. When her contract expired on 30 June 2007 the complainant was granted a one-month extension, which was subsequently extended until 30 November. In the period from April to early September 2007 numerous exchanges ensued between the complainant's treatment providers and the Administration regarding her medical condition, the cause of that condition and the prognosis for her return to work.

In the course of 2007 the UNAIDS Secretariat underwent a restructuring. Departmental Implementation Teams were established to identify posts that would be impacted by that process. As a result, it was decided that the complainant's post would not be renewed beyond 31 December 2007.

The complainant returned to work, and on 21 September 2007 she had a meeting with Mr G., the Chief of Human Resources Management, during which she was handed a letter of 20 September 2007 informing

her that there was “no operational need to renew the fixed activity post” that she held, beyond 31 December 2007. Consequently, she would be separated from service pursuant to Staff Rule 1040 and for the remaining period until 31 December she would be placed on special leave with full pay in order to facilitate her job search.

On 29 October 2007 the complainant filed a notice of intention to appeal with the WHO Headquarters Board of Appeal (HBA). On 20 November she submitted her full statement alleging that the decision of 20 September 2007 was the result of personal prejudice, incomplete consideration of facts, failure to observe or apply correctly the provisions of the Staff Rules and Regulations and improper application of the WHO post classification standards. The Board met on 25 April and 6 June 2008 and, considering the lack of evidence of a link between the non-renewal of the complainant’s contract and her allegations of harassment, it decided to hold her case in abeyance until the Director-General had issued her final decision with respect to the Grievance Panel proceedings. On 6 October, before final decisions were rendered with respect to her complaint before the Grievance Panel and her appeal to the HBA, the complainant filed a complaint with the Tribunal, reiterating the allegations she had made before those two bodies.

By a letter of 10 October 2008 the Director-General of WHO informed the complainant that Mr B.’s ongoing medical condition had prevented his full participation in the investigation conducted by the external firm and the Grievance Panel proceedings. She explained that the Panel had been unable to provide her with the information she needed and, based on medical information that she had received, she accepted that it was unlikely that Mr B. would be able to appear before the Panel in the reasonably foreseeable future. Consequently, it was not possible for her to take a decision on the merits of the complaint. Acknowledging the unsatisfactory nature of this outcome for all of the parties concerned and noting the delay in the proceedings, she awarded the complainant 10,000 Swiss francs.

In its report of 16 December 2008 the HBA concluded that it was not possible to determine whether harassment or prejudice had

influenced the non-renewal of the complainant's contract. It recommended against reinstatement and renewal of her contract and against further compensation. By a letter of 16 January 2009 the complainant was informed that the Executive Director rejected her appeal.

B. The complainant submits that her complaint is receivable because of the failure by UNAIDS and WHO to render final decisions within the prescribed time limits regarding her complaint of harassment lodged with the Grievance Panel and her appeal before the Headquarters Board of Appeal respectively.

On the merits, she contends that the Administration was grossly negligent in its lack of response to her allegations of harassment, in violation of the "zero tolerance" policy of the Organization in that respect. The failure by the Grievance Panel to investigate and adjudicate her complaint was contrary to its own rules and resulted in the Organization breaching its duty of care and good governance and depriving her of the right to be given an opportunity to prove her allegations. In addition, the failure by the Grievance Panel and the external firm to investigate her complaint in a timely and professional manner led to an increased level of harassment and retaliatory behaviour on the part of other staff members who were sympathetic to Mr B., and to injury to her health.

The complainant argues that WHO failed to apply its post classification standards in her case and points out that the Administration has acknowledged that her request for reclassification of her post was not processed properly.

She contends that the decision by the Departmental Implementation Team not to renew her post was based on a misrepresentation of her duties, an inaccurate review based on outdated terms of reference, the dismissal of important information, and conclusions which were not supported by the facts. In addition, the decision was biased by personal prejudice and was erroneous because at no point during the restructuring was she consulted with respect to her duties.

The complainant alleges personal prejudice on the part of Mr G. and the Director of Health and Medical Services, Dr G.-M. She argues that Mr G. misrepresented and withheld important facts critical to the decision-making process of the Departmental Implementation Team and is therefore partially responsible for the decision not to continue her post, and she accuses Dr G.-M. of having caused her unnecessary anxiety and of having breached patient-client confidentiality.

The complainant seeks compensation for the mental and physical harm she has suffered and for the injury to her professional reputation and career. She claims moral damages for the delay in the Grievance Panel proceedings and for the failure by WHO Health and Medical Services to fulfil the duty of care it owed to her. She also claims material damages for the loss of a three-month contract with WHO and payment of the difference in salary between grades G.5 and G.7 as from the date she requested a reclassification of her post. She seeks a written apology signed by the Executive Director of UNAIDS and reimbursement of all costs related to her complaint before the Tribunal, the Grievance Panel proceedings and her appeal to the Headquarters Board of Appeal.

C. In its reply WHO objects to the receivability of the complaint on the grounds that the complainant has not exhausted the internal remedies provided for by Article VII of the Statute of the Tribunal. She filed her complaint before she was informed of the final decision of the Director-General dated 10 October 2008 regarding her complaint lodged with the Grievance Panel, and before the Executive Director issued his final decision on 16 January 2009 with respect to her appeal to the Headquarters Board of Appeal. WHO acknowledges that, based on the filing date of the complainant's full statement of appeal, under Staff Rule 1230.3.3, the Board's report would normally have been due in mid-June 2008. However, because the appeal included allegations of harassment, pursuant to paragraph 3.2 of the WHO Formal Process for Harassment Allegations at Headquarters, those allegations were referred to the Grievance Panel and the appeal was held in abeyance pending receipt of the Panel's report and recommendations. Paragraph 3.2 provides that such cases may require an extension of the time limit

for the reporting of the Board's findings under Staff Rule 1230.3.3. After the Director-General issued her final decision regarding the harassment complaint, the HBA reconvened on 16 October and 1 December and issued its report and recommendations on 16 December 2008. With respect to the delay in the Grievance Panel proceedings, the defendant contends that this was caused by circumstances over which the Panel and the Director-General had little control. Prompt action was taken to examine the allegations against Mr B. by way of a fact-finding inquiry conducted by an external firm. However, Mr B.'s medical condition precluded him from fully participating in both the inquiry and the Grievance Panel proceedings. The gravity of his condition was confirmed by medical information that was requested by and provided to the Director-General before she issued her final decision. Lastly, WHO argues that, although the complainant claimed damages for the adverse effects to her mental and physical health that resulted from the performance of her official duties, this claim is irreceivable because she did not file a claim for compensation for illness attributable to service with the Advisory Committee on Compensation Claims.

On the merits, WHO submits that in the absence of a report from the Grievance Panel, the Director-General's ability to decide on the substance of the complaint was materially affected. Despite this, in recognition of what the Director-General referred to as an unsatisfactory result for all parties and the time that had elapsed, it was decided to award the complainant 10,000 Swiss francs. The Organization contends that no additional compensation is warranted.

The defendant argues that the complainant's allegations regarding the classification review of her former post, the process undertaken by the Departmental Implementation Team and the decision not to extend her fixed-term post beyond 31 December 2007 must all be examined in the light of the reorganisation of the ACL Department in 2005 and 2006 and the restructuring of the UNAIDS Secretariat in 2007. It states that the complainant's outstanding request for a classification review came to the attention of Mr G. in the course of the proceedings before the HBA. It was acknowledged that the process had not been properly

carried out and a classification review was subsequently conducted which resulted in no change in the grade of the post. Consequently, although the classification was postponed, there was no change in grade and the complainant is not entitled to compensation in this respect.

Moreover, the relevant Departmental Implementation Team concluded that as a consequence of the restructuring there was no operational need to renew the fixed-term post occupied by the complainant. The decision to separate the complainant for completion of service was taken in accordance with Staff Rule 1040 and was fully in line with the case law. The complainant was given the requisite notice and was granted special leave with full pay to facilitate her search for further employment. In addition, the extension of her contract for one month between 30 June and 31 July 2007 coincided with the monthly updates of the complainant's medical status, which enabled UNAIDS and the Health and Medical Services to monitor properly her sick leave under insurance cover. In the Organization's view, this was a correct and reasonable application of the Staff Rules.

WHO denies all of the complainant's allegations of personal prejudice, more particularly on the part of Mr G. and Dr G.-M. It submits that Mr G.'s actions were appropriate given his role as Director of the Human Resources Management Department. In its view, the complainant had expectations of securing a new fixed-term appointment and those expectations were unrealistic in the absence of any active cooperation on her part. It asserts that all of the enquiries, actions and decisions taken by Dr G.-M. were taken in her capacity as Director of WHO Health and Medical Services and were all appropriate and do not reflect personal prejudice.

D. In her rejoinder the complainant elaborates on her pleas. She challenges the Organization's contention that her claim for damages in relation to the mental and physical injury she has suffered is a matter for the Advisory Committee on Compensation Claims. The injury to her health flowed from the delay in the proceedings before the Grievance Panel and the HBA, and as a result of that delay she was subjected to discrimination, prejudice, further harassment and mobbing

in the workplace. She points out that her first meeting with Mr G. took place in WHO medical services, in the presence of Dr G.-M., despite the fact that she did not give her prior permission for Mr G. to attend a meeting the purpose of which was to discuss her health condition.

E. In its surrejoinder the defendant maintains its position. It points out with respect to the meeting held in WHO medical services that the complainant had been informed of the purpose of the meeting and was advised that Mr G. would be in attendance.

CONSIDERATIONS

1. The complainant joined UNAIDS in January 2002 as a Secretary, at grade G.4, in the Social Mobilization and Information Department under a short-term contract which was renewed from time to time. In June 2005 she was granted a one-year fixed-term contract as Assistant in the Information Centre. That contract was extended for another year followed by short-term contracts until she separated from service on 31 December 2007.

2. There are two aspects to this complaint. One is about harassment on the part of the complainant's first-level supervisor, the other is about the termination of her employment. The first concerns the complainant's allegations of harassment. She alleges in particular that for a period of more than two years she was subjected to sexual, psychological and verbal harassment by Mr B. She states that she repeatedly reported the harassment to senior staff members and the WHO Ombudsman. On 6 December 2005 she filed a complaint of harassment with the Headquarters Grievance Panel against him. That same month Mr B. suffered a heart attack and never returned to work. An investigation into the complaint of harassment that was initiated was never completed, because, as the Grievance Panel stated, Mr B. was too ill to be interviewed or to defend the allegations against him properly.

3. By a letter of 10 October 2008 the Director-General informed the complainant that she was unable to take a decision on the harassment complaint as a result of the Grievance Panel's inability to conduct an investigation. She acknowledged that this was an unsatisfactory result and awarded the complainant 10,000 Swiss francs by way of compensation.

4. The second aspect of the complaint concerns the complainant's separation from service. In early September 2006 the complainant was placed on sick leave. Although she attempted to return to work, she was again placed on sick leave with full pay in November 2006, and in April 2007 she was placed on sick leave under insurance cover. Eventually, she returned to work and on 21 September she was handed a letter dated 20 September 2007 informing her that as a result of UNAIDS restructuring there was no operational need to renew her fixed-term contract beyond 31 December 2007. Accordingly, she would be separated from service and to facilitate her job search she would be placed on special leave with full pay until that date.

5. On 29 October 2007 the complainant filed a notice of intention to appeal with the Headquarters Board of Appeal. She submitted her full statement on 20 November 2007, challenging the decision not to renew her contract and to separate her from service. She contended that that decision was the result of personal prejudice, incomplete and cursory evaluation of the facts, failure to observe or apply correctly the provisions of the Staff Rules and Regulations and improper application of WHO post classification standards. She sought reinstatement, damages for injury to her health and material damages. The HBA decided to keep its decision in abeyance, pending the Director-General's final decision with regard to the proceedings before the Grievance Panel.

6. The complainant filed her complaint with the Tribunal on 6 October 2008. As noted above, the Director-General's final decision

with respect to her harassment complaint was communicated to the complainant in a letter dated 10 October 2008.

7. The HBA resumed its deliberations and on 16 December 2008 it released its report. It observed that in the light of the Director-General's decision concerning the harassment complaint, it was not possible to determine whether harassment or prejudice had influenced the decision not to renew the complainant's contract, but it appeared that the applicable procedures had been followed correctly. With respect to the complainant's claims for compensation for injury to her health made in her appeal, the Board stated that they should be pursued with the Advisory Committee on Compensation Claims. It recommended against reinstatement and renewal of the complainant's contract and, accepting the outcome of the classification review that had been carried out – according to which an upgrading of the post was not justified – the Board recommended against the payment of additional compensation. By a letter dated 16 January 2009 the Executive Director of UNAIDS informed the complainant that he accepted the Board's recommendations and dismissed the appeal.

8. The Organization submits that the complaint is irreceivable for failure to exhaust internal remedies. It concedes that the HBA's report would have been due by mid-June 2008. However, in view of the fact that the complainant had made allegations of harassment, in accordance with the process established those allegations had to be referred to the Grievance Panel. As it will become evident, a consideration of the correctness of this last assertion is unnecessary. The Organization also maintains that the delay in the Grievance Panel proceedings was due to circumstances over which the Panel and the Director-General had little control.

9. The complaint form indicates that the complaint is directed against the Organization's failure to take an express decision upon a claim notified to UNAIDS on 6 December 2005. The case law allows that where the Administration has failed to take a decision "within

sixty days from the notification of the claim to it”, as provided for by Article VII, paragraph 3, of the Statute of the Tribunal, and the staff member has done all that is legally possible to secure a final decision within a reasonable time and a decision is not received, he or she may proceed directly before the Tribunal without waiting for a final decision (see Judgment 2631, under 3). With respect to the harassment complaint, the delay was such that, consistent with the Tribunal’s case law, the complainant was entitled to proceed directly before the Tribunal. This applies equally to the internal appeal which was held in abeyance pending the outcome of the harassment complaint. Within this context, it is clear that the complaint concerns both the proceedings before the Grievance Panel and the Headquarters Board of Appeal. As it did not appear likely at the time the complaint was filed that a decision would be received within a reasonable time on either the allegations of harassment or the non-renewal of the complainant’s contract and her separation from service, the complaint is receivable.

10. Given that a final decision has now been taken in relation to both matters, it is convenient to proceed by reference to that decision. Turning first to the harassment complaint, the complainant states that she repeatedly reported Mr B.’s harassment to her second-level supervisor, the Chief of Human Resources Management and the Ombudsman, but that the Administration was grossly negligent in its lack of response to her allegations. She notes that at no time between the start of the harassment and the date of the filing of her formal complaint did the Administration conduct an investigation into the matter. She contends that the Grievance Panel’s failure to investigate and adjudicate her complaint was a breach of its own rules and of its duty of care. She adds that the failure to conduct an investigation in a timely and professional manner caused an increased level of harassment and retaliatory behaviour on the part of other staff members, as a result of which she suffered injury to her health that ultimately led to her being placed on 100 per cent sick leave.

11. In summary, the Organization maintains that the actions it took in response to the complainant's allegations of harassment were reasonable in the circumstances. It points out that prompt action was taken to address the allegations by way of a fact-finding inquiry conducted by an external firm and that the delay in the Grievance Panel proceedings and the time taken to reach a decision were due to a backlog of cases as well as Mr B.'s medical condition. The Organization takes the position that the complainant has been adequately compensated for the unsatisfactory result of her harassment complaint and should not be awarded any additional compensation.

12. With respect to the delay in the Grievance Panel proceedings, the Tribunal notes that the proceedings in the present case followed the same course as the Grievance Panel proceedings in a similar case considered in Judgment 2973. In that judgment, the Tribunal made the following observations:

"10. To the extent that the Organization attributes the delay in processing the harassment complaint to Mr B.'s medical condition, the Tribunal makes the following observations. Although a summary of the complaint was prepared and sent to the Director-General and a copy thereof to Mr B., the first step in the process, namely, constituting a Panel to examine the complaint, was not taken until the end of June 2007, approximately 16 months after the filing of the formal complaint. No explanation is offered for the fact that once the Panel was constituted it took until the end of February 2008 to resolve a straightforward question of receivability. It was only then that the Grievance Panel advised that it would proceed with a full investigation and that since Mr B. had only given an initial response he would be given an opportunity to respond fully to the complaint. Up to that point, it cannot be said that the delays were due to Mr B.'s medical condition.

11. It would appear that in March 2008, the Panel wrote to Mr B.'s counsel and advised him of his client's right to submit a reply within 30 days. He was also asked to provide up-to-date information regarding his client's medical condition. Following an exchange of correspondence and receipt of a medical report on 31 July, the Director-General reached the decision that was conveyed to the complainant on 10 October 2008. At

best, if any delay can be attributed to Mr B.'s medical condition, it was not more than five months.

12. The question remains whether Mr B.'s medical incapacity to participate in the investigation justified its termination. It must be observed at this point that the state of Mr B.'s health at the material time is based on assertion only. The Organization has not tendered any evidence in support of its assertions. Given its position that it was actively monitoring Mr B.'s medical condition, it would be expected that evidence in support of the assertion would have been adduced.

13. The Tribunal notes that the WHO Formal Process for Harassment Allegations at Headquarters contemplates that the investigation will be continued even if the alleged harasser has not filed a response to the complaint. If this were not the case, an alleged harasser could undermine an investigation by simply not submitting a response. However, that is not what happened in the present case. In its communications with the complainant and in its submissions, WHO characterised Mr B.'s response of 14 March 2007 as only being an initial response. This characterisation is not entirely accurate. Although Mr B. referred to his letter as an initial response, the letter is in fact a detailed foot-noted response to the complaint that deals with procedural matters, issues of receivability and due process, and the merits of each of the complainant's allegations.

14. In these circumstances, WHO was obliged to continue the investigation in accordance with the process it established to deal with harassment complaints. By terminating the investigation, WHO put the interests of the alleged harasser ahead of those of the complainant. In circumstances such as these, the Organization has a duty to provide both sides with an equal opportunity to present their case and to challenge the positions being advanced by the other party to the dispute. The inequality stemming from the termination of the investigation is well illustrated in the present case. As noted above, despite the defendant's assertion to the contrary, not only has the alleged harasser been given an opportunity to provide a detailed response, which the complainant has had no opportunity to challenge, he has also submitted lengthy statements from other individuals challenging the complainant's credibility. The complainant has been denied the opportunity to challenge these statements or to adduce evidence in response.

15. It must also be added that, even if the investigation had not been terminated, the long delay seriously compromised the integrity of the investigative process. In addition to the diminishing recollection of events with the passage of time, potential witnesses are no longer available. As well, with the passage of time, it may be that those individuals in the Administration responsible for ensuring the protection of the staff member concerned are no longer with the Organization. If so, this would effectively

preclude any accountability for the failure to protect a staff member if a finding of harassment were to be made.

16. In Judgment 2642, under 8, the Tribunal framed the obligations of an international organisation in the following terms:

‘In Judgment 2552 the Tribunal pointed out that an accusation of harassment “requires that an international organisation both investigate the matter thoroughly and accord full due process and protection to the person accused”. Its duty to a person who makes a claim of harassment requires that the claim be investigated both promptly and thoroughly, that the facts be determined objectively and in their overall context (see Judgment 2524), that the law be applied correctly, that due process be observed and that the person claiming, in good faith, to have been harassed not be stigmatised or victimised on that account (see Judgment 1376).’

17. In terms of the consequences flowing from the breach of an organisation’s duty of care, in Judgment 2654, under 7, the Tribunal made the following observation:

‘By failing to conduct an inquiry to determine the validity of such serious accusations, the defendant breached both its duty of care towards one of its staff members and its duty of good governance, thereby depriving the complainant of her right to be given an opportunity to prove her allegations. This attitude is liable to have caused serious injury which the indemnity awarded at the proposal of the Appeals Board does not entirely redress.’

18. In the present case, there were serious allegations of both sexual and psychological harassment. By failing to deal with the informal complaints in a manner consistent with its own policy, by failing to conduct an investigation in a timely manner when a formal complaint was filed and then by terminating the investigation, WHO breached its duty of care toward the complainant and caused her serious injury. [...]”

13. These observations and findings are equally applicable in the present case. As the Tribunal observed in Judgment 2973, the offer of compensation of 10,000 Swiss francs does not adequately compensate the injury accruing from the long delay and the termination of the investigation. Accordingly, the Director-General’s decision of 10 October 2008 will be set aside. The complainant is entitled to an award of moral damages in the amount of 30,000 francs, inclusive of the amount awarded by the Director-General and, for the

same reasons given in that judgment she is entitled to costs in the amount of 3,000 francs.

14. Turning to the complainant's submissions in relation to the non-renewal of her contract and her separation from service, the complainant claims that the Organization breached its post classification standards. She alleges that the decision reached by the Departmental Implementation Team was based on a misrepresentation of her duties, an inaccurate review based on outdated terms of reference, and was not supported by the facts. She also alleges that the decision was tainted by personal prejudice and bias.

15. It is well established in the case law that decisions taken in relation to restructuring and the reclassification of posts within an Organization's structure are "within the discretion of the organisation and may be set aside only on limited grounds [...] for example, if the competent bodies breached procedural rules, or if they acted on some wrong principle, overlooked some material fact or reached a clearly wrong conclusion" (see Judgment 2807, under 5).

16. Having reviewed the materials filed by the parties, the Tribunal concludes that the decision concerning the non-renewal of the complainant's contract and her separation from service did not involve reviewable error. As to the allegations of personal prejudice and bias, the Tribunal observes that there was no error in the Board's conclusion that there was insufficient evidence to make a finding of personal prejudice or bias. Finally, there is no evidence that the actions of the Administration caused the complainant any additional health problems or that there was bias on the part of Health and Medical Services. Accordingly, there is no basis upon which the Executive Director's decision of 16 January 2009 can be disturbed.

DECISION

For the above reasons,

1. The Director-General's decision of 10 October 2008 is set aside to the extent that it did not award the complainant more than 10,000 Swiss francs as moral damages.
2. WHO shall pay the complainant moral damages in the amount of 30,000 francs, inclusive of the amount awarded by the Director-General.
3. It shall also pay her costs in the amount of 3,000 francs.
4. All other claims are dismissed.

In witness of this judgment, adopted on 4 November 2010, Ms Mary G. Gaudron, President of the Tribunal, Mr Giuseppe Barbagallo, Judge, and Ms Dolores M. Hansen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 2 February 2011.

Mary G. Gaudron
Giuseppe Barbagallo
Dolores M. Hansen
Catherine Comtet