Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

L.

v.

ILO

135th Session **Judgment No. 4622**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms S. L. against the International Labour Organization (ILO) on 17 January 2020 and corrected on 20 February, the ILO's reply of 7 April 2020, the complainant's rejoinder of 28 May 2020 and the ILO's surrejoinder of 22 June 2020;

Considering Articles II, paragraph 1, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

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

The complainant challenges the decision to terminate her appointment for reasons of health.

The complainant, who joined the ILO in 1999 as a secretary, was granted an appointment without limit of time on 1 March 2008. In the following months she began to experience wrist pain, which was recognised as attributable to the performance of her official duties in 2011.

Following the onset of new pain, in March 2012 the complainant submitted a request for compensation for illness attributable to the performance of official duties. The two attempts to reassign her that the International Labour Office (hereinafter "the Office"), the ILO's

secretariat, arranged in May and June 2012 were unsuccessful. The complainant exhausted her sick leave entitlement on 31 October 2012.

The report drawn up in December 2012 following a medical evaluation found that the fact that the pain returned when the movements in question were resumed suggested at least a partial causal link with her official duties. On 22 January 2013 the Office's Medical Adviser and the medical practitioner treating the complainant recommended that her appointment be terminated for reasons of health under article 11.11(a)(2) of the Staff Regulations. The complainant was then placed on special leave without salary, and her case was submitted to the Staff Pension Committee to determine whether she was eligible for an invalidity pension. That pension was refused in May 2013.

As the complainant had on 1 July 2013 contested the recommendation to terminate her appointment pursuant to article 11.11(b) of the Staff Regulations, an Invalidity Committee was established. In the report that it issued at the end of March/beginning of April 2014, the Committee unanimously found that the musculoskeletal impairments of the complainant's upper limbs were attributable to the performance of her official duties. However, the members of the Committee also unanimously found that the complainant had never been incapacitated within the meaning of Article 33 of the Regulations of the United Nations Joint Staff Pension Fund (UNJSPF). The Committee considered that the occupational nature of the complainant's condition should have been recognised in January 2013 and recategorised it as an occupational disease. Taking the view that she was "capable of returning to work at the Office subject to her reassignment and the adaptation of her position" and that it was "unnecessary [...] to recommend that her appointment be terminated for reasons of health", the Committee recommended that vocational training be organised with a view to her reassignment to a medically appropriate position with the assistance of a body with expertise in this area such as the *Institut universitaire romand de santé au travail* (IST). The complainant was then placed on special leave with salary with retroactive effect from 1 February 2013. In a letter of 7 July 2014, the Director of the Human Resources Development Department informed the complainant that he had decided to "set aside

[the] joint recommendation" made by her medical practitioner and the Office's Medical Adviser in January 2013 to terminate her appointment for reasons of health and to follow the Committee's recommendation by attempting to reassign her to a medically appropriate position.

On 16 March 2015, after the IST had been consulted, the complainant was reassigned to a job as a telephone operator and receptionist, but she proved unable to perform that role despite technical adjustments having been made. The IST stated that if a suitable job which did not involve working at a screen or repetitive movements of the upper limbs could not be offered to her, retraining should be considered. The complainant was again placed on special leave with salary from 10 April 2015. As no position meeting the IST's requirements could be identified, the complainant was notified in a letter of 23 December 2015 that her case was to be referred back to the Invalidity Committee.

On 6 April 2016 the members of the Invalidity Committee were asked to consider the complainant's case with a view to determining whether she could be presumed "unable to perform [her] duties satisfactorily during the remaining term of [her] appointment", for the purposes of article 11.11(a) of the Staff Regulations, which would trigger the procedure for terminating her appointment for reasons of health. After holding two meetings and hearing the complainant, they delivered their report on 6 February 2017. The Committee found that it "[did] not have any medical reason to conclude that [the complainant] [was] unable to perform her duties satisfactorily during the remaining term of her appointment" and that her reinstatement "should therefore be planned as soon as possible". It recommended that a multidisciplinary team be tasked with identifying a job compatible with the limitations imposed by her state of health, that the analysis of the job offer be approved by the IST, and that the job be evaluated on site by the IST. A copy of the report was sent to the complainant on 13 February 2017, and she was informed of the membership of the multidisciplinary team in a letter of 15 August 2017. She was asked at that point to authorise the disclosure to team members of particular medical records, and she agreed to their partial disclosure on 23 August 2017. In the report they delivered on 27 February 2018, the team members concluded that no post existed to

which reasonable accommodation measures could be applied in order to address the limitations imposed by the complainant's state of health and that no such post was likely to become available. This report was forwarded for information to the Invalidity Committee on 10 May 2018.

In the meantime, by a letter of 9 May 2018 the Director of the Human Resources Development Department had sent the complainant a copy of the multidisciplinary team's report and informed her that it was apparent from the team's findings and those of the Invalidity Committee that, in view of her state of health, she would be unable to perform her duties satisfactorily during the remaining term of her appointment. He stated that the Director-General had therefore decided to terminate her appointment for reasons of health under article 11.11 of the Staff Regulations with effect from 31 May 2018. The complainant was informed that she was entitled to an indemnity equal to one year's pay. That indemnity and an amount equivalent to the 60 days' leave that she had not taken were paid to her on 26 June 2018.

On 12 October 2018 the complainant submitted to the Director of the Human Resources Development Department a grievance in which she sought the setting aside of the decision of 9 May 2018, compensation for the moral and material injury she considered she had suffered and the adoption of any other measures that might accommodate her. The Director dismissed her grievance on 14 January 2019, noting that the Office had gone above and beyond what was required by its statutory obligations and duty of care to accommodate her, that a number of efforts had been made to reintegrate her into the workforce and that she had continued to receive her full salary between 1 February 2013 and 31 May 2018.

The complainant filed an appeal with the Joint Advisory Appeals Board (JAAB) on 14 February. In its report dated 3 October 2019, the JAAB found that the decision of 9 May 2018 was unlawful and that the complainant, who was to be considered able to work, should retain her employment with effect from 31 May 2018 and receive all her entitlements until the Office identified a position suited to her medical condition. It recommended that the Director-General set aside the decision of 9 May 2018 and award the complainant compensation in the

amount of 25,000 Swiss francs for the moral injury she had suffered. In a letter of 22 October 2019, which is the impugned decision, the complainant was notified that the Director-General considered that he could not endorse the JAAB's findings in respect of the termination of her appointment.

The complainant asks the Tribunal to set aside the impugned decision, to order her reinstatement in a position accommodating her needs, to grant her the reimbursement with interest of any sum redressing the material injury that she submits she has suffered, net of all sums received pursuant to the decision of 9 May 2018, to award her compensation for the moral injury arising from the breach of the applicable rules and the undue length of the proceedings, to take any other measure necessary to accommodate her and to award her costs.

The ILO asks the Tribunal to dismiss the complaint as entirely unfounded.

CONSIDERATIONS

1. The complainant impugns the decision of 22 October 2019 in which the Director-General of the ILO confirmed, contrary to the JAAB's recommendations, the termination of her appointment for reasons of health decided on 9 May 2018 with effect from 31 May 2018 due to the musculoskeletal impairments that had appeared in 2008 and had been recognised as attributable to the performance of her official duties.

2. Among the various pleas entered by the complainant in support of her complaint, there is one that is decisive for the outcome of this dispute. It concerns a breach of the provisions of the Staff Regulations governing the procedure for terminating a staff member's appointment for reasons of health.

3. Article 11.11 of the Staff Regulations, which concerns "[t]ermination for reasons of health", provides in paragraph (a) that:

> "The Director-General may terminate the appointment of an established official:
>
> (1) upon joint certification by the Medical Adviser and a duly qualified medical practitioner who is treating the official, or upon certification by the Invalidity Committee, that the official's state of health justifies the presumption that he will be unable to perform his duties satisfactorily during the remaining term of his appointment;
>
> (2) where the official has exhausted the sick leave to which he is entitled, on the joint recommendation of the Medical Adviser and a duly qualified medical practitioner who is treating the official, or after consulting the Invalidity Committee."

4. In the present case, it is clear from the wording of the letter of 6 April 2016 referring the matter to the Invalidity Committee and the decision of 9 May 2018 taken at the end of the procedure initiated by that referral, both of which cite the ground for termination stated in article 11.11(a)(1) of the Staff Regulations (namely, an official's inability "to perform his duties satisfactorily during the remaining term of his appointment"), that the complainant's appointment was terminated pursuant to that provision, as the Organization itself confirms in its reply. More specifically, the article 11.11(a)(1) procedure relied upon in taking that decision was the one in the Committee is responsible for certifying the official's inability to work, as is evident from both the purpose of the referral letter and the content of the decision in question, taken on the basis of the Invalidity Committee's report of 6 February 2017.

In this regard, the Tribunal notes that although a procedure aimed at terminating the complainant's appointment for reasons of health had originally been initiated pursuant to article 11.11(a)(2) on the basis of a joint recommendation of 22 January 2013 by the Office's Medical Adviser and the complainant's medical practitioner, that procedure was discontinued by the Organization. Indeed, following a challenge to that recommendation before the Invalidity Committee and the submission in April 2014 of Committee's report thereon, which stated that the complainant was "capable of returning to work at the Office subject to her reassignment and the adaptation of her position" and that it was "unnecessary [...] to recommend that her appointment be terminated for reasons of health", the ILO had "decided to set aside that joint

recommendation", as the complainant was informed in a letter of 7 July 2014 from the Director of the Human Resources Development Department. Thus, the decision of 9 May 2018 to terminate the complainant's appointment was taken solely on the basis of the new procedure later initiated, as has been stated, pursuant to article 11.11(a)(1) of the Staff Regulations.

5. The Tribunal considers that, as the complainant correctly submits, the ILO did not comply with the procedure set out in article 11.11(a)(1).

It must be noted that, in its aforementioned report of 6 February 2017, the Invalidity Committee, far from certifying that the complainant was unable to work, as required by the provision in question to allow a termination of appointment thereunder, stated that it "[did] not have any medical reason to conclude that [the complainant] [would be] unable to perform her duties satisfactorily during the remaining term of her appointment", thereby in essence confirming the opinion that it had already issued on this matter in its 2014 report. The Committee even stated explicitly that it considered that "[the complainant's] reinstatement as an active staff member of the Organization should therefore be planned as soon as possible".

It is true that the Committee added in its report that, in view of the complainant's medical condition, account should be taken of specific restrictions when determining the post to be allocated to her, in particular the need to significantly limit her use of a computer keyboard and mouse, and it therefore recommended that a multidisciplinary team composed of various experts in the field be given the task of identifying a post that would accommodate these restrictions. At the end of its deliberations, this team, which was established in June 2017, came to the conclusion in its report of 27 February 2018 that "no suitable post currently existed, or was likely to arise, for which reasonable accommodation measures could be applied to address [the complainant's] medical requirements and limitations".

However, it was for the Invalidity Committee itself to determine, on the basis of the multidisciplinary team's findings (which it could have refuted if it considered that the team had not carried out its task properly), whether the complainant should be considered unable to work. Under article 11.11 of the Staff Regulations, only the Invalidity Committee is empowered to certify inability to work before a termination of appointment for reasons of health, as is further borne out by paragraph 26 of Annex II to the Staff Regulations concerning "[c]ompensation in event of illness, injury or death attributable to the performance of official duties", of which subparagraph (a) provides that "[t]he Invalidity Committee [...] shall be competent to recommend the termination of appointment under article 11.11 of the Regulations of an official who has suffered an illness [...] which is within the scope of this annex".

6. The Invalidity Committee did not intend in its report of 6 February 2017 to delegate its powers under the aforementioned provisions to the multidisciplinary team responsible for identifying a job accommodating the complainant's functional impairments.

Moreover, such a delegation would have been legally impossible, since it is a general rule that an authority or body cannot legally delegate its powers to a third party unless the rules expressly provide for this (see, for example, Judgments 3494, consideration 16, 1696, consideration 5, or 1477, consideration 7 *in fine*). Obviously, there was no provision allowing the Invalidity Committee to delegate powers to the multidisciplinary team that was established in this case, which was an ad hoc body not provided for in the Organization's Staff Regulations.

The Tribunal further notes that the multidisciplinary team did not consider itself authorised to replace the Invalidity Committee in deciding whether the complainant was able to work. On the contrary, it took pains to state at the end of its report of 27 February 2018 that "[this] report [was] to be submitted to the Invalidity Committee", adding that the team "[would] remain available to meet with the Invalidity Committee to explain [its] conclusions, as necessary".

7. In order for the procedure to be completed and for the Organization to be able to terminate the complainant's appointment lawfully under aforementioned article 11.11, the Invalidity Committee had to be requested to reconsider the case with a view to certifying that the complainant was unable to work, if it considered that it had to make such a decision this time in the light of the multidisciplinary team's report. In that regard, the Tribunal notes that the ILO is wrong to maintain in its pleadings that a further consultation was not necessary because, in its view, the Invalidity Committee had intended to make recognition of the complainant's ability to perform her official duties conditional on the identification by the multidisciplinary team of a post accommodating her impairments. Apart from the fact that the above quotations from the report of 6 February 2017 categorically stating that the complainant was able to work can hardly be interpreted in this way, the certification of inability to work required under article 11.11 presupposes that the Invalidity Committee has come to that conclusion, which is in any event different from a recognition of a conditional ability to work.

The Tribunal observes that this requirement of consultation was all the more important given that the composition of the Invalidity Committee – which, under article 10.4 of the Staff Regulations, includes a medical practitioner appointed by the official concerned, another medical practitioner appointed in agreement with the first medical practitioner, and a member appointed by the Staff Union Committee – constituted a safeguard for the complainant that was not provided by the composition of the multidisciplinary team, which was made up solely of persons appointed by the Organization.

The fact referred to by the Organization in its submissions, that the secretary of the Invalidity Committee had informed the complainant in the email forwarding the report of 6 February 2017 to her that "[t]he procedure before the Invalidity Committee [was] now complete" and that "any decision taken following that report [would] be communicated to [her] directly by the Administration", did not prevent the further consultation of that body that was thus required. The inclusion of these statements, which are standard formulations used when communicating such reports, plainly could not prevent the Invalidity Committee from

exercising its authority if the multidisciplinary team failed in its task of identifying a suitable position.

8. However, instead of asking the Invalidity Committee to decide whether to certify the complainant as unable to work following the delivery of the team's report, the ILO chose to terminate the complainant's appointment directly in the decision of 9 May 2018.

The sequence of events also reveals that the Organization intended to forestall any further determination by the Committee regarding the complainant's case, since the evidence shows that the Director of the Human Resources Development Department, expressly stating that the report was provided for information only, did not send the multidisciplinary team's report to the secretary of the Invalidity Committee until 8 May 2018, the day before the decision in question was taken, and that, as a result, the report could not be sent to members of the Committee themselves until 10 May, the day after the decision was taken.

9. By terminating the complainant's appointment for reasons of health on the basis of the multidisciplinary team's report, when, as stated above, the Invalidity Committee had never certified that the complainant was unable to perform her duties satisfactorily during the remaining term of her appointment, the ILO breached the abovementioned provisions of article 11.11 of the Staff Regulations and the principle *tu patere legem quam ipse fecisti*, which prohibits an organisation from infringing the rules it has itself laid down, as the JAAB correctly found.

10. Moreover, as the complainant rightly submits, that failure to comply with the applicable provisions of the Staff Regulations was accompanied by a breach of her right to be heard, which compounds the unlawfulness of the impugned decision.

Under the Tribunal's settled case law, which is based on a general principle of international civil service law, the administrative status of a staff member cannot be unilaterally altered to her or his detriment by the employing organisation without that staff member having been given the opportunity to comment on the proposed measure beforehand

(see, for example, Judgments 3124, consideration 3, 1817, consideration 7, or 1484, consideration 8). Clearly, this case law must be applied with the utmost stringency where a decision with such far-reaching consequences as the termination of an appointment is involved.

As it was, in the present case the complainant's right to be heard before the decision was taken to terminate her appointment was not observed. It is true that she was heard by the Invalidity Committee on 2 December 2016 during the deliberations that led it to find that she was able to perform her duties. However, that hearing took place before the multidisciplinary team was tasked with finding a suitable position. Given that the decision to terminate the complainant's appointment was taken on the basis of the team's report, the Tribunal considers that she should have also been afforded the opportunity to submit her observations on the attempt to identify a position when it was carried out or at least to comment on its failure before the decision of 9 May 2018 was taken. Yet she was not, as will be shown below.

11. The file shows that in an email of 13 September 2017 the complainant had informed the Human Resources Development Department of her "wish to be involved in the process of identifying a suitable position" led by the multidisciplinary team. The aforementioned report of 27 February 2018 states that the complainant had more specifically in this regard "indicated availability to meet with the Team in person to provide her inputs to its review process".

However, the multidisciplinary team deliberately chose not to hear the complainant, despite the opposing view of the participating medical practitioner, because, as the report puts it, it would have been "beyond its scope and mandate, as established by the Invalidity Committee", to meet with her and "[a]ny further meetings with her should be decided by the Invalidity Committee in the context of its procedures". Furthermore, and probably for similar reasons, the team did not at any time request the complainant to submit written comments, since the only contact it had with the complainant during its deliberations was to obtain permission to consult medical reports concerning her. Although the Organization submits that the complainant could nevertheless have submitted such

comments of her own accord, that argument appears to the Tribunal to be deeply disingenuous given the team's refusal to accept the complainant's approaches, worded as stated above.

However, apart from the fact that it would have been preferable for the complainant to have been heard by the multidisciplinary team itself, the Invalidity Committee, as noted above, was not asked to reconsider the case following the delivery of the team's report, with the result that the complainant could not by definition be heard again by the Committee, as had been envisaged in the report, or submit written comments to it. She was thus denied any opportunity to express her views at that stage on the issues relating to the identification of a position accommodating her functional impairments.

12. It is not disputed that the complainant was likewise not given the opportunity to provide comments on this matter to the Organization before the decision of 9 May 2018 was taken.

Indeed, the file shows that she only received the multidisciplinary team's report of 27 February 2018 at the same time as she was notified of that decision, to which a copy of the report was appended. The termination of her appointment for reasons of health that was based, as has been stated, on the conclusions of that report was therefore decided without her being granted the opportunity to comment on those conclusions, bearing in mind that she could not have requested a copy of the report earlier since she had not even been informed until then that it had been submitted.

Under the Tribunal's settled case law, a staff member must, as a general rule, have access to all evidence on which an authority bases or intends to base a decision that adversely affects her or him (see, for example, Judgments 3688, consideration 29, 3295, consideration 13, or 2700, consideration 6). In the present case, the complainant ought therefore to have been provided with the report in question in sufficient time to allow her to challenge its conclusions before the decision on her situation was taken, as there was clearly no legitimate reason preventing its disclosure to her.

13. The Tribunal points out that, far from being a mere procedural flaw, the breach of the right to be heard identified above had a tangible bearing on the outcome of the present case. If the complainant had been given the opportunity to submit comments during the attempt to identify a position accommodating her functional impairments, she could, for example, have provided the multidisciplinary team with useful information for determining jobs at her level of responsibility that she herself considered could be adapted to her needs, which might have allowed the team to conduct its search more effectively. Similarly, if the complainant had been allowed to comment on the team's report before the decision on her situation was taken, she could have pointed out several shortcomings in it that were correctly identified by the JAAB in its opinion, such as the lack of an exact list of positions examined during the search and the failure to give sufficient consideration to her options for vocational retraining. Thus, although the Tribunal considers that the material in the file does not permit a formal finding that, as the JAAB concluded, the Office did not genuinely use all available means to identify a position that could be allocated to the complainant, it is in any event clear that it was essential to the quality of the decision-making process that any comments made by the complainant on the efforts undertaken to that end be taken into account.

14. It follows from the foregoing that the impugned decision of 22 October 2019, together with the decision of 9 May 2018 and the decision of 14 January 2019 rejecting the complainant's initial grievance against the decision of 9 May 2018, must be set aside, without the need to consider her other pleas.

15. However, in the particular circumstances of the case, the Tribunal will not order the complainant's reinstatement at the ILO.

Reinstatement appears inappropriate as the evidence shows that, given the nature and extent of the complainant's functional impairments, there is a significant risk that, even if the ILO were able to identify a position that could be adapted, the Organization would not find the conditions under which the position would be held satisfactory and that the complainant would therefore inevitably be placed in a situation that in

reality would not be particularly rewarding and in any event would not allow her to achieve her full potential in her work. From that perspective, the Tribunal considers that, ultimately, in the complainant's own interests and in view of the many years of employment she could still have ahead, it is objectively preferable that she endeavour to redirect her career towards an occupation that is more naturally compatible with the impairments in question than the administrative roles likely to be offered to her in the Organization.

Moreover, an examination of the file reveals the existence of tension between the complainant and the Organization, borne out by the heated tone of the written submissions exchanged by the parties in the present proceedings, which would undoubtedly make it difficult in practice for the complainant to return to the Office. In that regard, the Tribunal notes that, in its 2014 report, the Invalidity Committee had already observed that the complainant's reinstatement, while it should certainly "be attempted in the first instance", would nonetheless be "hard" for her emotionally. As it is, the conflictual nature of her relationship with the Office appears to have only been confirmed, if not exacerbated, since then.

16. However, the complainant was denied a valuable opportunity to retain her employment with the ILO at least on a temporary basis as a result of the flaws in the termination of her appointment, and she is therefore entitled to compensation for the material injury caused.

Having regard, in particular, to the complainant's age at the time of the termination of her appointment, which was only 43, and to the fact that she had held an appointment without limit of time since 2008, the Tribunal considers that, in the present case, this injury will be fairly redressed by ordering the ILO to pay the complainant, in addition to the sums already awarded to her on termination of her appointment, the equivalent of the salary and allowances of all kinds which she would have received if her appointment had continued beyond 31 May 2018 for two years, net of any income from employment that she may have received during this period. The Organization must also pay her the equivalent of the pension contributions that it would ordinarily have had

to pay to the United Nations Joint Staff Pension Fund as her employer for the same period. All these amounts shall bear interest at the rate of 5 per cent per annum as from the respective dates on which they fell due until the date of their payment.

17. In that regard, the Tribunal notes that, while the complainant alleges a breach of provisions of paragraph 7(c) of abovementioned Annex II to the Staff Regulations, which lays down the rules governing remuneration of an official suffering from an illness attributable to the performance of official duties in the event that her or his service ceases, the injury resulting from that breach in any event is subsumed in the injury resulting from the loss of remuneration owing to the termination of the complainant's appointment, for which compensation has already been awarded in the preceding consideration.

18. The unlawful termination of the complainant's appointment also caused her significant moral injury owing to its intrinsic nature, serious consequences and the breach of her rights that accompanied its adoption. That injury also warrants redress. As the complainant correctly states, the injury was further exacerbated by the length of the administrative procedures, which lasted more than five years from the instigation of the first attempt to terminate her appointment in January 2013 until the adoption of the decision of 9 May 2018, even without taking into account the subsequent internal appeal procedure. The slowness of the procedures, which their complexity, referred to by the Organization, is not sufficient to fully justify, had the effect of unduly placing the complainant in a situation of prolonged, inherently stressful uncertainty regarding the future of her employment with the Organization. In the circumstances of the case, the Tribunal considers that the moral injury will be fairly and entirely redressed by awarding the complainant damages in the amount of 30,000 Swiss francs under this head.

19. The complainant asks the Tribunal to order the ILO to "take any other measures necessary to accommodate her" and, in particular, to bear the costs of any vocational retraining aiming to enable her to work in a job compatible with her functional impairments. However, the

Tribunal is not competent to make orders of this kind against international organisations (see, for example, Judgments 4039, consideration 17, 3835, consideration 6, or 3506, consideration 18). In addition, it should be observed that, with regard to such retraining, the Organization rightly points out that, under paragraph 14 of the abovementioned Annex II to the Staff Regulations, the ILO's contribution to the financing of vocational rehabilitation is only payable if the staff member concerned is affected by partial invalidity, which has not been recognised by the Staff Pension Committee or considered by the Invalidity Committee to be the case for the complainant.

20. However, as the complainant succeeds for the main part, she is entitled to costs, which it is appropriate to set at 1,000 Swiss francs in view of the manner in which she was represented before the Tribunal.

DECISION

For the above reasons,

1. The decision of the Director-General of the ILO of 22 October 2019, and the decisions of 9 May 2018 and 14 January 2019, are set aside.
2. The ILO shall pay the complainant material damages and interest thereon, calculated as indicated in consideration 16, above.
3. The Organization shall pay the complainant moral damages in the amount of 30,000 Swiss francs.
4. It shall also pay her 1,000 Swiss francs in costs.
5. All other claims are dismissed.

In witness of this judgment, adopted on 17 November 2022, Mr Patrick Frydman, Vice-President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 1 February 2023 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLÉMENT GASCON

DRAŽEN PETROVIĆ