

opinion of the Secretary of the Board concerning the receivability of the appeal.

II. The Joint Appeals Board did not consider the question of a possible waiver of the time-limits provided for in Staff Rule 111.3 (d).

III. The Tribunal therefore considers that it would be inappropriate to consider the merits of the case at this stage and refers the case to the Joint Appeals Board for consideration in the light of Staff Rule 111.3 (d).

(Signatures)

Francis T. P. PLIMPTON
Vice-President, presiding

Suzanne BASTID
President, alternate member

Samar SEN
Member

Jean HARDY
Executive Secretary

Arnold KEAN
Member

New York, 6 November 1980

Judgement No. 261

(Original: English)

Case No. 245:
Boelen

Against: **The Secretary-General
of the United Nations**

Non-renewal of a fixed-term appointment.

Nature of the Applicant's appointment and her expectations concerning renewal of such appointment.—Applicant's failure to produce conclusive proof concerning alleged promises.—Conclusion of the Tribunal that the Administration made no commitment about the renewal of the Applicant's appointment.—Circumstances of the Applicant's separation from service.—The Applicant's objections against the periodic report on which the decision not to renew her appointment was based.—Those objections are not well founded.—Failure of the Administration to comply with the provisions of Administrative Instruction ST/AI/115.—It cannot be concluded that the decision not to renew the Applicant's appointment was either unjust or illegal.—A subsidiary request of the Applicant is not receivable.—Application rejected.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Endre Ustor, Vice-President, presiding; Mr. Francisco A. Forteza;
Mr. Samar Sen;

Whereas, at the request of W. A. Marianne Boelen, a former staff member of the United Nations Development Programme, hereinafter called UNDP, the President of the

Tribunal, with the agreement of the Respondent, extended to 15 October 1979 the time-limit for the filing of an application to the Tribunal;

Whereas, on 12 October 1979, the Applicant filed an application the pleas of which read as follows:

“1. The Applicant requests the Tribunal to waive the requirements of article 7 of the Rules of the Administrative Tribunal to the extent that they have not been met here; alternatively Applicant requests to be informed of the necessary corrections (article 7, paragraph 10 of the Rules of the Tribunal).

“ . . .

“2. The Applicant requests the Tribunal to rule and judge that the application is receivable and the Tribunal is competent to hear it.

“3. (a) The Applicant requests the Tribunal that the decision of the Administration not to renew the fixed-term contract of the Applicant be rescinded . . . and that she be given another two-year fixed-term contract.

“(b) Alternatively, the Applicant requests that she receive compensation equivalent to two years' net base salary.

“4. The Applicant requests that she be given compensation as '*pretium doloris*' in an amount to be determined by the Tribunal, since the open mailing of the letter of the Secretary-General of 23 May 1979 . . . further deteriorated her chances of further employment, now with FAO.”

Whereas the Respondent filed his answer on 5 February 1980;

Whereas, on 5 May 1980, the Applicant filed written observations in which she requested oral proceedings;

Whereas the presiding member rejected that request on 14 August 1980;

Whereas the facts in the case are as follows:

The Applicant entered the service of UNDP on 7 August 1972 as a Programme Officer under a fixed-term appointment for two years and was assigned to the UNDP Office in Ethiopia. In a first periodic report, covering the period from August 1972 to June 1973, the first reporting officer, namely Mr. F. Seib, Resident Representative of UNDP in Ethiopia, gave the Applicant the first rating on three items (initiative, punctuality, and personal relations with others), the second rating (on a five-point scale) on four items (written expression in working language, oral expression in working language, industry, and sense of responsibility), and the middle rating on all other items (professional knowledge and skill, power of analysis, skill in producing a solution, judgement, quality of work accomplished, and quantity of work accomplished); he commented:

“This was staff member's first assignment as Programme Officer. I have given guidance and occasionally corrected unsuitable approaches.”

The second reporting officer rated the Applicant as “a staff member who maintains a good standard of efficiency”. The Applicant's second periodic report, which covered the period from June 1973 to March 1974, was drawn up on 19 March 1974 by Mr. R. B. Stedman, Assistant Administrator and Regional Representative of UNDP in Ethiopia, as first reporting officer. He gave the Applicant the second rating (on a five-point scale) on three items (industry, quantity of work accomplished, and sense of responsibility), the middle rating on five items (skill in producing a solution, written expression in working

