

treatment he received and for the delay in the disposal of his appeal by the Joint Appeals Board due to procrastination by the Respondent.

VII. Taking all the circumstances of the case into account, the Tribunal awards compensation in the amount of \$US 2,500 to the Applicant.

All other pleas are rejected.

(Signatures)

Samar SEN
Vice-President, presiding

Herbert REIS
Member

Geneva, 2 June 1983

Roger PINTO
Member

Jean HARDY
Executive Secretary

Judgement No. 306

Original: English

Case No. 283:
Gakuu

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

Request by a former staff member of the United Nations Centre for Human Settlements (Habitat) to rescind the decision not to renew his fixed-term appointment.

Conclusion of the Joint Appeals Board that omission by the Applicant of material information from the Personal History form when applying for a post resulted from an error and not wilful misrepresentation.—Conclusion that non-renewal of appointment was tainted by improper motivation and was tantamount to disciplinary action and recommendation to award ex gratia payment as compensation.—Recommendation rejected.

The Tribunal reiterates its jurisprudence that, when a staff member is separated after long service and a series of contracts, a determination must be made whether he could reasonably expect an extension.—Question whether the Applicant had reasonable expectations for renewal of his contract and whether the decision was vitiated by improper motives or a failure to observe basic procedural requirements.—The Tribunal finds that the Applicant's statements on Personal History form were false and deliberate.—The Respondent's failure to check this information does not constitute a defence for the making of false statements.—The Tribunal holds that after the discovery of false statements the Applicant could not have any reasonable expectation for continued employment.—Finding that the Respondent was within his rights in deciding not to renew the Applicant's appointment.

The Tribunal believes that the procedure set forth in personnel directive PD/1/76 should have been followed but holds that the Respondent's failure to observe that procedure did not adversely affect Applicant's rights.

Application rejected.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,
Composed of Mr. Endre Ustor, President; Mr. Samar Sen, Vice-President;
Mr. Roger Pinto; Mr. T. Mutuale, alternate member;

Whereas, on 28 June 1982, Evans Gakuu, a former staff member of the United Nations Centre for Human Settlements (Habitat), filed an application in which he requested the Tribunal:

“1. To *overrule* the decision of the Secretary-General

“(a) to maintain his decision not to renew the Applicant’s fixed-term appointment;

“(b) not to accept the Joint Appeals Board’s recommendation for an *ex gratia* payment to the Applicant;

“(c) merely to take note of the Joint Appeals Board’s recommendation to reinstate the Applicant.

“2. To *uphold* the findings of the Joint Appeals Board contained in para. 32 of its report that the non-renewal of the Applicant’s fixed-term appointment was the result of the incident involving the Applicant’s supervisor, was irregular and arbitrary and tantamount to disciplinary action.

“3. To *uphold* the findings of the Joint Appeals Board contained in para. 33 of its report that the actions leading up to the non-renewal of the Applicant’s fixed-term appointment were based on improper motivation.

“4. To *accept* the recommendations of the Joint Appeals Board contained in para. 34 that the Applicant be awarded an *ex gratia* amount equivalent to six months net base salary to compensate for the unjust treatment and the suffering that he has endured.

“5. To *order* the Secretary-General

“(a) to pay the Applicant an amount equivalent to six months net base salary for the unjust treatment and the suffering that he has endured,

“(b) to reinstate the Applicant as from the date of his discharge

“(c) in the alternative, to pay the Applicant the maximum termination indemnity equivalent to a person holding permanent appointment (compensation calculated at one week’s salary for each month of uncompleted service until superannuation) plus ten thousand dollars (\$10,000.00) for damage to the Applicant’s personal and professional reputation and ability to earn a decent livelihood in Kenya.

“6. To hold oral proceedings.”

Whereas the Respondent filed his answer on 24 November 1982;

Whereas the Applicant filed written observations on 22 February 1983;

Whereas the President ruled on 12 April 1983 that no oral proceedings would be held in the case;

Whereas the facts in the case are as follows:

On 1 August 1977, prior to his recruitment, the Applicant completed and signed a “Personal History” form in which, under item 27 (“Employment Record”), he stated that he had been employed by the Kenya Police as a Police Constable from August 1967 to May 1977 and gave as the “reason for leaving”: resignation; under item 32 (“Have you ever been arrested, indicted, or summoned into court as a defendant in a criminal proceeding, or convicted, fined or imprisoned for the violation of any law (excluding minor traffic violations)?”), he replied: no. He also submitted a certificate of discharge from the Kenya Police indicating resignation as the cause of discharge. On 3 July 1978 he entered the service of the Centre for Human Settlements (Habitat) at Nairobi as a Guard (a functional title subsequently changed to Security Officer)

under a fixed-term appointment for six months which was successively extended to 30 June 1979 and 31 December 1979. On the night of 27 October 1979 an incident took place between the Applicant and his supervisor, Mr. A. L. Hecquet, in which the Applicant claimed to have suffered physical injury. The incident was investigated by a three-member panel under the provisions of Personnel Directive PD/1/76 on "Disciplinary Procedure for Staff serving at Offices away from Headquarters and Geneva". From 1 January 1980 to 31 July 1980 the Applicant received a two-month fixed-term appointment, then a succession of month-to-month fixed-term appointments. On 22 January 1980 the Investigative Panel submitted its report, with the following conclusions:

"(a) The charges of serious misconduct made by Mr. Gakuu against Mr. Hecquet in that the latter wrongly struck him and used violence against him have been substantiated.

"(b) The validity of Mr. Hecquet's charges against Mr. Gakuu that the latter wrongly "pushed" him causing him to fall, could not be ascertained by the Panel. However, the Panel is of the considered opinion that in view of the violence and abuse wrongly inflicted on Mr. Gakuu by Mr. Hecquet, if any such "pushing" did take place as claimed by Mr. Hecquet, it could only have resulted from the provocation and use of physical violence wholly initiated by Mr. Hecquet in the first instance.

"(c) The Panel must also conclude that Mr. Hecquet's actions in contacting the Kenya Police authorities concerned in the incident, and making untrue statements to the effect that the United Nations had initiated an investigation as to their "unauthorized" presence in the building, his attempt to wrongly influence Superintendent Mwangangi by "making her understand the consequences if she decided to take sides in the matter" and by offering this Police official employment with the United Nations, can only be considered as, at the very least, acts of bad judgement."

By a letter dated 25 January 1980 the Kenya Police informed Mr. Hecquet, in reply to a letter from him dated 14 January 1980, that the Applicant had been dismissed from the Kenya Police Force on 12 February 1977 after a criminal conviction. On 16 May 1980, in a "Request for information and clarification under the provisions of Staff Rule 104.4 (d)", the Chief of the Personnel Section of Habitat transmitted to the Applicant a copy of the letter dated 25 January 1980 from the Kenya Police and drew his attention to the information he had provided under items 27 and 32 of the "Personal History" form, concluding:

"In view of the above, I would appreciate receiving, by 21 May 1980, your written statement supplying the following information:

"(1) The circumstances and reasons for your dismissal from the Kenya Police.

"(2) The circumstances of your criminal conviction including the offense, date of conviction, name of court, sentence/fine imposed, and other pertinent data.

"(3) Any other clarification or explanation you may wish to provide concerning this matter."

On 29 May 1980 the Applicant provided the requested information and clarification in a memorandum to the Chief of the Personnel Section reading in part:

“Sometimes in November 1976 I got sick while stationed at Kitale Police Station.

“ . . .

“It so happened that on 8 January 1977 I was discharged from Hospital and we went home with my wife who had come to visit me. On arrival at our Nairobi residence, my sister in law told us that a certain Mr. Justice Munene had left a luggage there which he would come back for it. The man in question was a former workmate while I was stationed in Kitale, I then said it was okay. As soon as we arrived I went straight to bed because I was tired. While in bed at about 7:30 p.m. three Police Officers knocked at my door. Of the three, two were my former workmates. They introduced themselves and said that they wanted to carry out a search. To this I asked the[m] why and they said that they had been tipped that there were animal trophies. They ordered us to open all the boxes and on reaching the suitcase that my frie[n]d Justice had left they told us to open it but we had no keys for it, so they decided to break the lock. Here they found three animal trop[h]ies (leopard skins). My family and I were terribly shocked for none of us knew of such a plot. My sister in law told the Police officers how the suitcase was left by Mr. Justice Munene who was going back to Kitale from his home after leave and that he was to come back for it, but the Policemen coul[d] not listen to her. So we were all arrested, my wife, myself, my sister in law an[d] a visitor who had come to see us. My three children were left alone to be looked after by a neighbour, one of them was only three months old.

“At Nairobi law court, I admitted the charge so as to save my family unnecessary pain. I was then fined Ksh. 4,000/=, which I paid. The charge was that we were jointly charged with being with game trophies without the certificate of ownership.

“As a result I was dismissed from the Police Force, and I had to find other ways of getting my family to survive . . .

“As far as my personnel history forms that states that I resigned from the Police Force is concerned, I did this on the advice of Mr. Hecquet and Mr. Veeckman [then Chief of Security]. This was after I openly told them all my problems as they were both security officers. Mr. Hecquet told me that, that was a petty case and that I had only to find for a good discharge from the Police force. This I did and forwarded to them for employment.

“Sir, Mr. Hecquet knew my case and that is why in his first paragraph of his letter to the Panel dated 29 January 1980 Annex 33 he stated that he BELIEVED that the information given in my Personal History form does not appear to have resigned but dismissed. This clearly shows that Mr. Hecquet knew of my case prior to fill my personal history form as to his advice.

“Mr. Hecquet wrote an unofficial and private letter to the Assistant Commissioner of Police requesting how I left the Police Force stating that the letter was strictly confidential and for recruitment purposes only. This letter was written by Mr. Hecquet on 14 January 1980. This proves beyond reasonable doubts that Mr. Hecquet lied to the Assistant Commissioner of Police as per his letter, and also clearly shows that Mr. Hecquet was doing all this to cover himself from what he had already done to degrade me.

“Mr. Hecquet has not asked anyone else about their former employment and reasons for leaving. He has done this on me as to cover the whole matter which lies before him.”

In communications to the Chief of the Personnel Section dated 5 and 12 June respectively, Mr. Hecquet and Mr. Veeckman denied that the Applicant had informed them of his dismissal from the Kenya Police at the time of his recruitment. On 27 June 1980, in a memorandum to the Chief of the Division of Administration of Habitat, the Chief of the Personnel Section gave an account of the investigation concerning the information supplied by the Applicant in the “Personal History” form, concluding:

“that the misrepresentations made by Mr. Gakuu on his Personal History form dated 1 August 1977 are of a very serious nature and render him liable to dismissal. Had the true facts of his dismissal from the Kenya Police been known at the time of recruitment, Mr. Gakuu would not have been appointed as a Security Officer. Accordingly, as Mr. Gakuu should not be kept in service, it is recommended that he not receive an extension of his present fixed-term appointment upon its normal expiration date which is 30 June 1980.”

On 31 July 1980 the Chief of the Personnel Section sent the following memorandum to the Applicant:

“Further to our conversation of yesterday during which I answered the various questions you raised concerning the non-renewal of your fixed-term appointment beyond 31 July 1980, I wish to advise you that, should you wish to appeal this decision, you are entitled to do so under provisions of Staff Rules 111.3 and 111.4.

“ . . . ”

On 11 August 1980 the Applicant requested a review of the decision not to renew his appointment in a letter to the Secretary-General reading in part:

“1. I herewith appeal the decision of UNCHS not to renew my contract. I understand the reason for the non-renewal is based on the fact that I did not complete my application form correctly, three years ago.

“2. However, I completed the form after my interview with the UNEP [United Nations Environment Programme] Chief of Security Mr. Veeckman and his Deputy, Mr. Hecquet and after a complete explanation to them of my separation from the Kenya Police. I did in fact submit a letter of resignation to my supervisor and received a good discharge certificate (copy attached).

“3. It is alleged that I did not answer properly whether I had ever been ‘arrested . . . in a criminal proceeding’. The fact of the matter is I was arrested and charged under section 42 (1) (b) of the Wildlife Conservation and Management Act No. 1 of 1976 not under any penal or criminal code (the maximum penalty being a fine). I do not have a criminal record under Kenya Law. The case in question has been kept in the Petty Case Register.

“4. Moreover, I was never charged with wrongdoing but only skins were discovered in a suitcase left in my home during my absence. I have submitted evidence that I was in the hospital until this day of discovery of the skins in my house. In addition, I have a signed confession of the person who actually brought the suitcase into my home (copy attached). As I previously explained, I only accepted the possession charge in order that the others who were also in the house at the time of the said would be released

(particularly my wife and sister in law so that they could go home to take care of the children left alone at home).

“5. All the above facts were known in general by Mr. Hecquet, who in defending himself in the disciplinary action in which he was guilty, improperly solicited incorrect information from the Police Commissioner.

“6. I understand an investigation of my background should have taken place during the first six months of my service by the Personnel Office and not after 2½ years of service and not by a staff member seeking to damage the reputation of a colleague.

“7. I believe I have carried out my duties well. In fact I was commended by the disciplinary investigatory panel for the restraint I showed during the assault and battery by Mr. Hecquet.

“8. In view of the fact that I suffered physical injuries and medical costs as a result of Mr. Hecquet’s assault and now I face the loss of my livelihood for a minor incident which took place almost four years ago and for which no wrongdoing on my part was even charged, I respectfully request that I be re-instated as a security officer and be compensated for the loss of salary as well as injuries sustained.

“ . . . ”

On 15 September 1980 the Applicant, having received no reply from the Secretary-General, lodged an appeal with the Joint Appeals Board. On 29 September 1980 the Assistant Secretary-General for Personnel Services sent him the following reply:

“I refer to your letter of 11 August 1980 in which you request the review of the administrative decision of the United Nations Centre for Human Settlements (UNCHS) not to renew your fixed-term appointment as Security Officer.

“A careful review of your case has led to the conclusion that the decision not to renew your contract was fully justified. Far from being based on the fact that you did not complete your application form correctly—as you state—the decision was based on the fact that when applying for a post with the United Nations you knowingly gave false information. Such misrepresentation led the Organization to grant you an appointment which would not have been offered had the true facts been known.

“In your letter you have tried to explain the circumstances which allegedly led you into admitting a criminal offence which you now claim you did not commit. However, the fact remains that, while as per the 25 January 1980 letter from the Commissioner of Police F. J. Muoka, you were ‘on 12th February 1977 dismissed from the Kenya Police Force after a Criminal Conviction’, in your application you had stated that you had resigned from the Kenya Police Force, and that you had never been convicted for the violation of any law (excluding minor traffic violations).

“You also claim that the real facts were known to the former UNEP Chief of Security, Mr. Veekman and to his Deputy, Mr. Hecquet, but both of them have denied such knowledge. Furthermore, their knowledge of the real facts would not have been an excuse for your action, but merely a possible basis for subjecting them to disciplinary proceedings.

“As a further excuse, you mention the incident in which Mr. Hecquet allegedly assaulted you. However, Mr. Hecquet’s actions—which led to

disciplinary action against him—have no relation whatsoever with the false statements made by you almost three years earlier.

“In view of the foregoing, the Secretary-General can see no reason for rescinding the administrative decision challenged by you.”

The Joint Appeals Board submitted its report on 20 November 1981. The Board's conclusions and recommendations read as follows:

“*Conclusions and recommendations*”

“31. The Board finds that the omission from the Personal History form of the information regarding the appellant's arrest and fine for an alleged violation of the Wildlife Act constituted a material omission. The Board, however, is of the opinion that the omission of material information from the Personal History form was not intentional amounting to wilful misrepresentation, but an error resulting from probable misunderstanding. This opinion is borne out by the fact that the Habitat Administration is reported to have offered to forgive and forget if the appellant had apologized to Mr. Hecquet.

“32. The board also finds, contrary to the respondent's representation, that the non-renewal of the appellant's fixed-term appointment was determined by the circumstances of the incident involving the appellant and his supervisor, Mr. Hecquet. The Board thus feels that in this case the non-renewal of the appellant's fixed-term appointment is tantamount to disciplinary action. The Board notes that the appellant was exonerated of any misconduct by the Investigative Panel and therefore finds the imposition of 'disciplinary' action against him, despite the findings of the Investigative Panel, irregular and arbitrary.

“33. With regard to the appellant's allegation of prejudice and improper motivation, the Board is of the view that by requesting the appellant to apologize to his supervisor when in fact it was the appellant who suffered physical injury at the hands of his supervisor, and by calling attention to the temporary nature of the appellant's fixed-term appointment, it could be reasonably inferred that there was indeed improper motivation.

“34. Accordingly, the Board recommends that the appellant be awarded an *ex gratia* amount equivalent to six months net base salary to compensate for the unjust treatment and the suffering that he has endured.

“35. The Board further recommends that the respondent consider the possibility of re-employing the appellant.”

On 19 April 1982 the Assistant Secretary-General for Personnel Services informed the Applicant that the Secretary-General, having re-examined his case in the light of the Board's report, had decided to maintain the contested decision and not to accept the Board's recommendation for an *ex gratia* payment, adding:

“The above-mentioned decision is based on the Secretary-General's conclusion that the contested decision, which constituted a valid exercise of his discretionary authority, did not give rise to any legal or moral obligation in your respect.

“The Secretary-General also decided to take note of the Board's recommendation contained in paragraph 35 of its report.”

On 28 June 1982 the Applicant filed the application referred to earlier.

Whereas the Applicant's principal contentions are:

1. The Applicant in fact resigned from the Kenya Police and submitted a letter of resignation at the time to the Kenya Police. The certificate of discharge submitted by him was authentic, while the validity of the subsequent letter which Mr. Hecquet supposedly received from the Commissioner of Police was questionable.

2. Mr. Hecquet was able to write his letter to the Kenya Police dated 14 January 1980 because the Applicant had given him a full account of the incident at the time of his initial appointment in 1977.

3. It is obvious from a circular dated 1 August 1977 that an interview and a positive evaluation by Mr. Hecquet had taken place before that date.

4. The Respondent must be held responsible for the actions of a staff member with supervisory functions. Moreover, prejudice, improper motivation and irregular and arbitrary procedures have been found by the Joint Appeals Board. Therefore, the Respondent cannot raise the defense of discretionary authority.

5. As there never was an investigation conducted as required by Personnel Directive PD/1/76 nor was a fair procedure for rebuttal of all charges given to the Applicant, the Organization must be held responsible for its lack of due process.

Whereas the Respondent's principal contentions are:

1. The Applicant was separated from service as a result of the expiration of his fixed-term appointment, since he had no expectancy of renewal of his appointment.

2. The decision was neither improperly motivated nor procedurally defective.

3. The circumstances of the Applicant's separation did not give rise to any entitlement to compensation.

The Tribunal, having deliberated from 17 May to 2 June 1983, now pronounces the following judgement:

I. The two important issues for determination by the Tribunal are:

(a) If the Applicant had reasonable expectations for renewal of his fixed-term contract at the time he was separated, i.e., on 31 July 1980; and

(b) if the decision taken was vitiated either by improper motives or by a failure to observe basic procedural requirements.

II. Apart from these principal issues, there had been a large number of contentions between the Applicant and the Respondent. The Tribunal considers it necessary to deal first with these relevant but peripheral matters before deciding the two issues mentioned in the foregoing paragraph.

III. The Applicant contends that his application for employment with the United Nations in August 1977 was made in good faith. He claims that he had, before seeking employment, resigned from the Kenya Police Force and obtained a certificate dated 31 May 1977 showing that he was discharged on 12 February 1977. The Applicant states that both Mr. Hecquet and Mr. Veeckman, who recruited him, knew of the incident in January 1977, involving violation of the Wildlife Act of Kenya and in which the Applicant was arrested with his family. He was later convicted and fined. In filling up his "Personal History" form in August 1977 for a job with Habitat the Applicant suppressed these facts and stated that he had resigned from the Kenya Police Force whereas a letter of 25 January 1980 from them shows that he had been dismissed from that Force on 12 February 1977. The only reasonable conclusion is that the earlier certificate dated 31 May 1977 was obtained through some manipulation and that at the

time he was filling in his "Personal History" form the Applicant was making false statements. The Joint Appeals Board held that this might be due to a misunderstanding. Even assuming that a misunderstanding—a confusion between resignation and dismissal—was possible because of such conversation as might have taken place between the Applicant and Mr. Hecquet prior to August 1977, the Tribunal considers that the statement made by the Applicant that he had not "ever been arrested, indicted, or summoned into court as a defendant in a criminal proceeding, or convicted, fined or imprisoned for violation of any law (excluding minor traffic violations)" was both false and deliberate. At no stage were the Kenya Police Force asked why in 1977 they had given a certificate of discharge to the Applicant and in 1980 they had declared him as having been dismissed from the Kenya Police Force. Nor is any proof forthcoming about the letter of resignation which the Applicant claims to have written to the Kenya Police Force. In the opinion of the Tribunal, the Respondent's failure to check the information contained in the Applicant's "Personal History" form does not constitute a defence for the making of false statements by the Applicant.

IV. Considerable confusion also surrounds the circumstances in which an incident involving the Applicant and Mr. Hecquet, his supervising officer, took place in October 1979. From evidence available to the Tribunal, it appears that initially and perhaps for the sake of discipline and good relations some attempt was made to play down the incident if the Applicant would apologize to Mr. Hecquet. However, the Applicant was determined not to do so as he was convinced that he had been a victim of Mr. Hecquet's high-handedness and violence. The panel that investigated this incident concluded that Mr. Hecquet was guilty and the Applicant innocent. As a result Mr. Hecquet was separated in September 1980. The Tribunal considers that throughout this period of nearly one year (October 1979–September 1980) the question of discipline among the Security Officers was of some concern to the Respondent, but after the exoneration of the Applicant and the dismissal of Mr. Hecquet this question presented no difficulties. Nonetheless, this situation seems to have changed when Mr. Hecquet found a new employment in Belgium and the Applicant had not only been separated but was without employment. That a new sentiment prevailed about this time is clear from a memorandum which counsel for the Applicant wrote on 29 October 1981 to the Alternate Secretary of the Joint Appeals Board. The relevant part of the memorandum reads:

"He [Hecquet] stated in late Spring to me that he hoped the matter could be forgotten and that actually he had found Gakuu to be a good officer. He only wanted to insure discipline among his officers. In fact the Staff Committee was under the impression that something could be arranged for Gakuu until mid July—continuous extensions and transfer of assignment had in fact been arranged. When I approached the Executive Director on behalf of Gakuu, he answered by telling me how much Mr. Hecquet was suffering, career damaged, etc. I believe in his mind by the release of both men, there was some kind of Solomonic justice.

"However, the separation of Gakuu has had devastating consequences for him, while Hecquet has been able to re-establish himself in Belgium."

A similar sentiment had also been reflected in an appeal which many members of the staff had made on 31 July 1980 for the Applicant's continued employment.

V. The jurisprudence of the Tribunal has always maintained that if, after a long and loyal service and after a series of fixed-term and similar contracts, a

staff member is separated there must be a determination whether such a staff member could reasonably expect an extension. The Applicant had been in the employment of the United Nations for less than 2 years when it was found that he had made false statements in his "Personal History" form. On discovering this, the Administration asked him for an explanation and also pointed out the consequences that could follow as a result of such statements. The Tribunal concludes therefore that whatever might be the hope of the Applicant for continued employment, after the discovery by the Respondent of the false statements made by him he could have no reasonable expectation of any extension. The Tribunal holds therefore that the Applicant could not have any reasonable expectations for continued employment.

VI. The only remaining question is whether the Respondent had been influenced by improper motives or had failed to observe basic procedural requirements. By the middle of 1980 the Respondent had, according to evidence, already decided to separate the Applicant and the result of the investigation into the incident involving the Applicant and Mr. Hecquet was also known. However, the Joint Appeals Board felt that that incident did to some extent influence the decision of the Respondent in separating the Applicant. The Tribunal is hesitant to come to a definite conclusion on a matter of this nature, particularly as the Respondent was within his rights, both in terms of the contract and because of the false statements made by the Applicant, to refuse further extension. Even if no incident involving Mr. Hecquet and the Applicant had taken place, the rights of the Respondent not to renew the contract remained unimpaired.

VII. As regards the Applicant's contention that the omission of the Respondent to follow the procedure laid down in Personnel Directive PD/1/76 of 1 January 1976 deprived him of an opportunity for rebuttal of all charges, the Tribunal is of the view that this procedure should have been followed by the Respondent before separating the Applicant; however, since the Applicant's fixed-term contract was coming to an end within a short time of the Respondent's decision to separate him and inasmuch as the Respondent had no wish to extend it, the Respondent's failure to observe the procedure in Personnel Directive PD/1/76 did not adversely affect any of the rights of the Applicant.

VIII. The Tribunal notes the sentiments which prompted the Joint Appeals Board to make the recommendations contained in paragraph 34 of its report. However, the Tribunal cannot but recognize the right of the Respondent not to renew the fixed-term contract of the Applicant in the circumstances of this case.

IX. In the light of the foregoing, the Tribunal decides that the Applicant's plea for overruling the Respondent's decision in rejecting the recommendation of the Joint Appeals Board cannot be sustained, and therefore his further pleas, including those for damages and reinstatement, must also fail.

X. The application is rejected.

(Signatures)

Endre USTOR

President

Samar SEN

Vice-President

Roger PINTO

Member

Geneva, 2 June 1983

T. MUTUALE

Alternate Member

Jean HARDY

Executive Secretary