



Administrative Tribunal

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ADMINISTRATIVE TRIBUNAL

Judgement No. 1320

Case No. 1393

Against: The Secretary-General
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Ms. Jacqueline R. Scott, Vice-President, presiding; Mr. Julio Barboza; Ms. Brigitte Stern;

Whereas at the request of a staff member of the United Nations, the President of the Tribunal extended to 31 December 2004 the time limit for the filing of an application with the Tribunal;

Whereas, on 18 December 2004, the Applicant filed an Application requesting the Tribunal:

- “a. To quash the decision of the Administration to suspend the Applicant for almost three months;
- b. To quash the decision dated 19 July 2004 accepting the recommendation of the [Joint Disciplinary Committee (JDC)] to demote the Applicant by one grade, with no possibility of promotion for two years, and to impose a written censure upon the Applicant;
- c. Alternatively, to find that the ‘disciplinary sanctions’ already endured by the Applicant were more than sufficient punishment for the conduct alleged on the part of the Applicant in recognition of the Administration’s many and egregious violations of the law of the international civil service, due process and its own rules and regulations;
- d. To award the Applicant \$25,000 in respect of costs and expenses;
- e. To award the Applicant moral damages in the amount of \$250,000;
- f. [To order that] the Applicant be promoted to grade G-6 with effect from 19 July 2004, and [award him] full retroactive reimbursement of all salary, adjustments, increases, benefits and other emoluments that the Applicant would have received had he been so promoted;
- g. To pay interest on monetary damages awarded hereunder, calculated at the market rate from 6 January 2001 through to the date the [decision] of the Tribunal hereunder is satisfied in full;

- h. To recommend [to] the Secretary-General that disciplinary proceedings be instituted against [United Nations] officials the Tribunal finds responsible for the impugned decision;
- i. To grant such other relief as the Tribunal deems necessary, just and equitable.”

Whereas at the request of the Respondent, the President of the Tribunal granted an extension of the time limit for filing a Respondent’s answer until 8 August 2005,

Whereas the Respondent filed his Answer on 30 June 2005;

Whereas the Applicant filed Written Observations on 24 October 2005 and the Respondent commented thereon on 9 December;

Whereas on 20 June 2006, the Applicant submitted observations on the Respondent’s comments;

Whereas on 21 November 2006, the Tribunal decided to postpone the consideration of the case until its next session;

Whereas the statement of facts, including the employment record, contained in the report of the JDC reads, in part, as follows:

“[The Applicant]’s Professional Record

... [The Applicant] entered service at the United Nations on 22 May 1973 as an Usher at [the United Nations Office at Geneva (UNOG)] at the G-1 level on [a] short-term [contract]. Thereafter, his contract was renewed and he received a series of promotions. At the time of the events which gave rise to his Application, he held a permanent appointment and was serving at the P-5 level, as a Security Sergeant, Security and Safety Section, UNOG (SSS).]

...

... On 6 January 2000, he was suspended with full pay for an initial period of one month, extended for one month on 4 February ..., and then from 1 until 6 March

... On 7 March 2000, the [Applicant] resumed work and was reassigned outside the [SSS], to the Office of the High Commissioner for Human Rights (OHCHR). On 1 August 2003 he [received a] temporary assignment to OHCHR until 31 December 2004.

Summary of Facts

... On 22 January 1999, an anonymous letter allegedly addressed to the Director-General of UNOG and copied to United Nations senior officials and staff representatives was faxed to the [SSS]. The letter denounced the procedure of restructuring ... the ... Section and accused the Chief of the Section and some of his direct subordinates of favouritism and abuse of authority.

... On 17 December 1999, a second anonymous letter addressed to [the] Chief of the Security Section, was faxed to the [SSS]. The letter stated, inter alia, that the Section was headed by a ‘*Chef sans envergure*’ [(meaningless chief)] and run by ‘*des petits racistes et dictateurs incapables*’ [(useless little racists and dictators)].

... Upon receiving ... the anonymous fax on 17 December 1999, a preliminary investigation [was] initiated by [SSS] Investigators ... It revealed [that both] anonymous letters ... were faxed from the public

machine located near door 21 of the Palais des Nations, and that the transmission fees charged to send the faxes were paid for with [a] Euro card ... and [a] Visa card ...

... On 20 December 1999, a third anonymous letter was found by the [Applicant] and brought to the attention to the Chief, [SSS]. The author of the said letter stated to be in agreement with the author of the 17 December letter, and described the Chief, [SSS,] as a '*parvenu complexé*' [(insecure upstart)] and his Deputy Chief, '*un petit gamin apprenti dictateur*' [(a small kid wannabe dictator)].

... On 21 December 2001[, an SSS] Investigator ... [obtained] informal information from the Corner Bank Card Centre that the [Applicant] was the holder of the Visa card ... used to pay for the anonymous fax of 17 December 1999.

... Later the same day and in the framework of the primary investigation, a meeting between the Chief, [SSS], the Deputy Chief, the Chief of the Guard Platoon and the [Applicant] took place. During this meeting, the [Applicant] was asked, inter alia, whether he knew who sent the anonymous fax of 17 December 1999, if he was the titular of the Visa card used to pay for the same and whether he could produce his Visa card. The [Applicant] denied knowing who sent the fax and stated that he could not produce his Visa card, nor give any information related to the number of his Visa card at a later stage, because 'it is a private matter'.

... By fax dated 22 December 1999, the [SSS] Investigator obtained a letter together with a sales draft from Corner Bank Card Centre, which confirmed that the [Applicant] was the holder of the Visa card ...

... [The same day,] the Assistant Director of [the] UNOG branch of UBS Bank confirmed to the Chief[, SSS,] that the [Applicant] was the holder of the Euro card ...

... On 27 December 1999, [the] Deputy Chief, [SSS], established a note for the file concerning 'Lettres anonymes des 17 décembre et 22 janvier 1999' [Anonymous Letters of 17 December and 22 January 1999]. The same day, the Chief, [SSS, produced] a report concerning the case in which he expresse[d] his surprise about the fact that according to the evidence, it was the [Applicant] who sent the anonymous faxes. In this report, he expresse[d] his concerns about the situation in the [SSS] pursuant to the fax and asked for an investigation and, should the allegations be confirmed, that the staff member be moved away from the [SSS].

... By letter dated 6 January 2000, the Director... of Administration, UNOG, ... informed the [Applicant] of the allegation that he was the holder of the Visa card which had been used to pay for the anonymous fax of 17 December 1999, and requested his comments by 24 January ... He further informed the [Applicant] about his decision to suspend him with full pay for an initial period of one month, pending investigation, in accordance with paragraph 5 of ST/AI/371 [of 8 February 1991, entitled 'Revised Discipline Measures and Procedures']. ...

... On 10 January 2000, the Chief[, SSS,] issued a confidential memorandum informing the staff of the [SSS] that [following an administrative decision, the Applicant was forbidden to access the Palais or any other UNOG building until further notice,]

... By a letter dated 17 January 2000, the [Applicant] replied that he was 'not responsible'. At the same time, he allegedly admitted that he was the holder of the Visa card [and] produced [a] copy of an '*avis d'opération*' from his bank, Crédit Lyonnais, [purporting to] show that he had reported the loss of his Visa card ... on 8 ... December 1999.

... By letter dated 26 January 2000, the Director [of Administration] requested the [Applicant] to provide additional information regarding the loss of his Visa card, as well as the original '*avis d'opération*'. Moreover, the [Applicant] was requested to indicate whether he was the holder of the Euro card ...

... By letter dated 2 February 2000, the [Applicant] refused to provide any additional information, alleging, inter alia, that he bore no onus of proof, [and] had the right to be represented by a counsel and to be shown the evidence against him.

... On 4 February 2000, ... the Chief, Human Resources Management Service, UNOG, [(HRMS)] informed the [Applicant] that his suspension with full pay would be extended for a further month.

...

... By letter dated 1 March 2000, the Director [of Administration] informed the [Applicant] that his suspension with full pay would not be extended beyond 6 March ... At the same time, he pointed out that the preliminary investigation was not complete and again requested additional information concerning the alleged loss of the Visa card, and indicated that, otherwise, the Administration would directly contact the Crédit Lyonnais with respect to the *avis d'opération* submitted by the [Applicant].

... On 7 March 2000, the [Applicant] resumed work and was reassigned outside [the SSS], to the OHCHR in Palais Wilson.

... By letter dated 14 March 2000 to the Administration, the [Applicant] again underlined that he would not disclose any banking information as long as the Administration [had] not provide[d] him with evidence substantiating the allegations made against him.

... By letter dated 7 July 2000, the Director [of Administration] informed the [Applicant] that the investigation had been entrusted to [the Office of Internal Oversight Services (OIOS)]. However, the Director ... officially transmitted the case file to the [OIOS] Investigations Division [(ID)] only on 24 January 2001.

... The latter contacted the [Applicant]'s bank, a branch of the Crédit Lyonnais located in Annemasse, France. By fax dated 8 February 2001, the bank confirmed that the [Applicant] was [the] holder of the Visa card ... and attested that he ha[d] reported the loss of his Visa card on 28 December 1999.

... In September 2001, two ID Investigators on mission in Geneva interviewed the [Applicant]. [T]he [Applicant] allegedly stated that the Visa card ... had been stolen and that he had reported the theft to the bank on 8 December 1999. During the interview, the [Applicant] further allegedly confirmed that he was ... the holder of the Euro card ...

... OIOS ... [produced] its report ... on 14 November 2001.

... By letter dated 28 December 2001, the Chief, HRMS, informed the [Applicant] that pursuant to the OIOS report, it had been decided that a disciplinary procedure [should be] initiated ... The [Applicant] was asked to provide any written comment or explanation on the allegations of misconduct against him and was informed about his rights to assistance by ... counsel. ...

... By memorandum dated 19 January 2002, the [Applicant] submitted his 'preliminary response' to the Chief, HRMS, asking, inter alia, to be provided with a whole set of documents or information which '[he believed] ... acutely relevant to [his] defence ...'

...

... By memorandum dated 3 April 2002, the Chief, HRMS, submitted the case ... to [the] Assistant Secretary-General ... for Human Resources [Management]. By memorandum of the same day, [he] informed the [Applicant accordingly] ...

... On 15 July 2002, [the Applicant was advised] ...that ‘following a review of the documents submitted, ... [OHRM] has decided to pursue the matter as a disciplinary case in accordance with paragraph 5 of ST/AI/371’.

... On 23 August 2002, [the Applicant’s counsel] submitted his comments to the memorandum dated 15 July ...

... By memorandum dated 30 July 2003, [the] Officer-in-Charge, OHRM, referred the case ... to the JDC in Geneva ...”

The JDC adopted its report on 1 June 2004. Its considerations, conclusion and recommendation read, in part, as follows:

“Considerations

79. The Panel first considered the charges against the [Applicant] as they were presented by the Administration, namely:

- a. to have sent, in January and December 1999, two anonymous letters by fax to ... UNOG officials, containing accusations of highly insulting language; and
- b. to have submitted a forged bank document to the ... Director ... of Administration on 17 January 2000.

...

82. The Panel stressed that the present case is a disciplinary proceeding ... of an administrative nature and as such regulated by internal law of the Organization ... Therefore, a potential prohibition [in using] the information furnished by the banks as evidence ... [had] to be assessed ...

83. ... In the present matter of facts ..., the banking secret is, if at all, only affected in its ‘periphery’. The information given by the banks does not [provide] any information concerning the [Applicant]’s financial means or financial behaviour.

84. ... [T]he Panel considered it to be justified that the information furnished by the banks ... be accepted as admissible evidence.

...

Conclusion and Recommendation

97. The Panel *concludes* that the allegations against the [Applicant] are proven and that he has failed to comply with his obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules, and to observe the standards of conduct of an international civil servant.

98. However, given the *mitigating circumstances* ... the Panel considers that a separation from service of the [Applicant] would be too severe and extreme a measure. The Panel therefore *recommends* to the Secretary-General to apply the disciplinary measure of a *written censure*, together with a *demotion*.

Special Remark

99. The Panel wishes to ... draw [the] attention of the Secretary-General to the fact that it is unacceptable and unjustified that a disciplinary procedure takes more than four years, as the [Applicant]

concerned has had to live and work in an atmosphere of rumours and suspicion, and with the threat of a disciplinary procedure and sanction. ... [T]he Panel considers that a disciplinary procedure should not take longer than one and a half to two years.”

On 19 July 2004, the Under-Secretary-General for Management transmitted a copy of the report to the Applicant and informed him that the Secretary-General agreed with the JDC’s findings and conclusions and had decided to accept its unanimous recommendation and to demote him by one level, with no possibility of promotion for two years, and to impose a written censure for misconduct.

On 18 December 2004, the Applicant filed the above-referenced Application with the Tribunal.

Whereas the Applicant’s principal contentions are:

1. The Administration committed abuse of discretion by relying on illegally obtained evidence in the absence of any concrete evidence in order to charge the Applicant with an action that, in any event, did not rise to the level of misconduct.
2. The Administration relied on illegally obtained evidence in violation of Swiss and French banking laws, therefore the evidence must be thrown out and the impugned decision quashed.
3. The Administration denied the Applicant his fundamental rights of due process, by using his right not to self-incriminate against him.
4. The Administration’s initial decision to suspend the Applicant was procedurally irregular as it failed to establish the requisite grounds needed to implement a suspension under staff rule 110.2 and ST/AI/371.
5. The disciplinary sanctions imposed on the Applicant were occasioned by prejudice, bias, malice and discrimination by the Administration or some of its officials, and in violation of whistleblower protection.
6. The disciplinary sanctions imposed upon the Applicant for his alleged misconduct were disproportionate to his alleged conduct and must therefore be set aside.

Whereas the Respondent’s principal contentions are:

1. The Secretary-General has broad discretion with regard to disciplinary matters, and this includes determination of what constitutes misconduct warranting sanctions.
2. The Applicant’s misconduct was established and the imposition of the disciplinary measure was justified and fair.
3. The Applicant’s due process rights were fully respected.
4. The evidence obtained from the bank is admissible.

The Tribunal, having deliberated from 30 October 2006 to 21 November 2006, in New York, and from 27 June 2007 to 27 July 2007, in Geneva, now pronounces the following Judgement:

- I. The Applicant’s case is premised upon whether certain information given by French and Swiss banks to United Nations’ investigators was unduly obtained. That information concerned the ownership of credit cards used

to pay for the faxes by which the anonymous letters at the origin of this case were conveyed.

II. The Applicant contends that the information was illegally obtained because acquiring the information implied violation of the laws of Switzerland and France with respect to banking secrecy (*secret bancaire*). The Applicant invokes the principle that illegitimately obtained evidence is not admissible before the Tribunal and requests that, as a consequence, evidence regarding the ownership of the credit cards in question, and all conclusions inferred from that simple fact, must be stricken from the dossier.

III. As the Tribunal found in Judgement No. 1328, rendered at this session, “[t]he jurisprudence of the Tribunal is clear that the internal laws of the United Nations prevail and are the relevant legal basis upon which the Tribunal operates. (See, for example, Judgements No. 932, *Al Arid* (1999) and No. 1256 (2005).)” Where, however, there is a gap, or lacuna, in the internal laws, as in this case where the relevant legal instruments make no mention of banking secrecy or evidence obtained in such manner, the Tribunal is entitled, if not obliged, to consider general principles of law. (See generally, Article 38 of the Statute of the International Court of Justice.) As such, it may take cognisance of foreign law, and grant it evidentiary value.

It is evident that French and Swiss domestic law is foreign law in this jurisdiction. The Tribunal is not obliged to have knowledge of foreign law invoked by the parties in litigation before it: the onus is, then, on the Applicant to demonstrate that the information in question was specifically protected by the laws of France and Switzerland regarding banking secrecy. Moreover, the Applicant is obliged to provide detailed explanation of the laws in question in order that the Tribunal may determine whether or not they were breached and, consequently, the impact of such breach on the evidence thereby secured.

IV. The application of foreign law is highly complex: it involves the consideration of legal texts; the case law prevailing in the jurisdiction in which said law is applied; and, the opinion of learned jurists (*la doctrine*, per French legal parlance). When domestic courts are presented with foreign law, not only are texts consulted but participation of experts is required in the proceedings. No diligent Applicant would, then, limit himself to making sweeping assertions on the nature and scope of certain concepts of foreign law and expect the United Nations Administrative Tribunal to proceed on such a fragile basis.

The Applicant in the present case seems to assume as common knowledge that the information obtained from the bank regarding the ownership of the credit cards is protected by *secret bancaire* and, therefore, that he is not required to prove it. He limits himself to citing the “French Law on freedoms and computing, of 6 January 1978”, without including its text, and to quoting Article 47 (1) of the Federal Law on Banks and Credit Agencies of Switzerland. The latter provision punishes breach of banking secrecy or the incitement to violate a professional secret, but does not define the nature and scope of banking secrecy or conduct considered to violate same and, therefore, is not helpful in determining whether disclosure of the ownership of a credit card under the circumstances of this case is prohibited under *secret bancaire*.

With respect to privacy, the Applicant has not invoked any regulation or rule of the internal law of the United Nations. He appears to assert that not only has his privacy been invaded, but that such invasion invalidates all evidence thereby obtained. The Tribunal observes that he does not address the basic premise of whether any privacy right with respect to information printed upon a credit card is waived in the course of a credit card transaction. It notes that, under other circumstances, the merchant may have an automatic record of the cardholder's name either because the clerk physically processing the card sees the name printed thereon or because the credit card machine records it along with the card number.

The Tribunal finds, therefore, that the Applicant has failed to carry his burden of proving that it was illegal, *per se*, for the banks to provide the information in question. Concomitantly, the Tribunal is satisfied that the Applicant has not proven the illegality of the Respondent's actions in entering evidence regarding the ownership of the credit cards which paid for the faxes at the genesis of this case. However, the Tribunal need not go further into this issue, or consider the consequences had the Applicant carried his burden, as, under the circumstances of this case, it is satisfied that, quite apart from the matter of *secret bancaire*, the Applicant himself provided sufficient evidence to justify the sanction imposed upon him.

V. In the course of the preliminary investigation, the Applicant presented and relied upon a document which was either altered, by himself or someone else with his knowledge, or was erroneously issued by the bank. At the very least, the Applicant knew it was erroneous and misleading. It is clear that the document he presented was altered or erroneous, and the bank provided confirmation of this. The document produced by the Applicant bore, on its top left, the date 08.12.99. Towards the end of the document, however, was a long number identifying the banking operation to which the document referred. The bank, having been asked to authenticate the document, informed the Administration that the four first digits (281299) of this sequence indicated the date. There was, thus, an obvious discrepancy in the dates and one which was critically important given that the second fax was sent on 17 December 1999. The Tribunal finds it not improbable that, if the document was deliberately altered, the perpetrator did not pay attention to the long number identifying the operation, as the date included therein was part of a series of numbers and not immediately apparent as a date.

Be that as it may, the Tribunal is in no doubt that the alleged loss of the Applicant's Visa card was not communicated to the bank on 8 December, but on the 28th of that month, well after the second fax had been sent. This is corroborated by the fact that, in the evidence before the Tribunal, another document from the bank records the alleged loss as having occurred on 28 December. Finally, it is suspicious indeed that the Applicant refused to provide investigators with the original *avis d'opération* issued by the bank, which might have proven whether the document, as presented to the Organization, had been tampered with.

The Tribunal finds that the Applicant's explanation of the *avis d'opération* was, at the very least, disingenuous, as he states, in passing, that he "produced the *avis d'opération* ... which showed that he had reported the loss of his Visa card *on either 8 or 28 December 1999*". (Emphasis added.) Thus, the Applicant not only failed to prove his case but also committed a serious violation which was far from the conduct befitting an international civil servant. As the Tribunal held in Judgement No. 1342, rendered at this session, "documents produced in the

course of internal processes, including, and in particular, the administration of justice system must be reliable and authentic”.

The Tribunal holds that the Applicant could not invoke the breach of banking secrecy with respect to the information provided in this regard by the bank, which was merely requested to authenticate the *avis d'opération*, a document issued by the bank and brought into evidence by the Applicant himself. The bank was entitled to respond that the document, as presented, was not authentic to the original.

VI. Thus, an important fact was established in this case, quite distinct from the information allegedly obtained in violation of the banking secrecy laws: the Applicant presented a possibly forged, or, at best, inaccurate and misleading, document in an effort to improve his situation.

The position of the Applicant is that the evidence gathered in the dossier - even if it were admissible - would not be sufficient to prove beyond reasonable doubt that he sent the faxes. In other words, he contends that the inferences made from the initial, proven facts are exaggerated and should not be admitted. The Tribunal cannot support such a position. The Tribunal considers that the evidence mentioned above is sufficient to constitute a *prima facie* case against the Applicant.

In Judgement No. 897, *Jhuthi* (1998), the Tribunal held:

“In general, the burden of proof, where discretionary powers are exercised by the Administration, requires both parties to provide the Tribunal with all the relevant evidence that they have to enable the Tribunal to establish the facts. In disciplinary cases, when the Administration produces evidence that raises a reasonable inference that the Applicant is guilty of the alleged misconduct, generally termed a *prima facie* case of misconduct, that conclusion will stand. The exception is if the Tribunal chooses not to accept the evidence, or the Applicant provides a credible explanation or other evidence, that makes such a conclusion improbable.” (See also Judgement No. 941, *Kiwanuka* (1999).)

In Judgment No. 1103, *Dilleyta* (2003), the Tribunal clearly reaffirmed its jurisprudence, saying:

“The Tribunal accepts that the Respondent had established a *prima facie* case in relation to the allegations of misconduct. This did not mean that unless the Applicant established his innocence or provided some satisfactory explanation for his conduct, the JDC had to decide against him. The finding that a *prima facie* case had been made means only that the Respondent had established a case, which would entitle the JDC to conclude that the Applicant was guilty, when it accepts and is persuaded by the evidence offered as to his guilt. In this case, the JDC rejected the Applicant’s protestations and explanations. The Tribunal is satisfied that it was entitled to do so.”

The Tribunal finds likewise in the present case. Regardless of the provenance of the information regarding the cardholder’s name, once the *avis d'opération* was entered into evidence in this case, the inference is apparent that the Applicant was aware of the fraudulent, or erroneous, nature of the document. The Applicant did not offer any reasonable explanation for the established fact that his credit cards were utilized for paying for the faxes; rather, he limited himself to saying that there were many possible explanations, but did not mention, let alone prove, any other possibility than that it was he, the owner of the credit cards, who sent the faxes. The Tribunal notes that the latter hypothesis is the simplest and most logical explanation.

VII. As to the proportionality of the sanction, the Tribunal recalls Judgement No. 1187, *Igwebe* (2004), in which it held:

“Whilst the Tribunal has ‘consistently taken the view that the Secretary-General has broad discretion under this regulation with regard to disciplinary matters, and this includes determinations of what constitutes serious misconduct, as well as the appropriate discipline’ (Judgement No. 436, *Wiedl* (1988)), such discretion can be vitiated if the sanction imposed is found to be disproportionate. In Judgement No. 1090, *Berg* (2002), the Tribunal held that, in imposing disciplinary measures disproportionate to the facts, ‘[t]he Respondent’s actions exceeded the scope of his broad discretionary powers’. The Tribunal has undertaken proportionality reviews in a number of disciplinary cases and has awarded compensation where it found that the disciplinary sanction imposed was disproportionate in the circumstances of the case. (See, for example, *Berg*, *ibid.*, and Judgement No. 1011, *Iddi* (2001).) In the instant case, the Tribunal finds that separation from service was not disproportionate and was, in contrast, entirely appropriate in the circumstances. It is disappointing that such a measure had to be imposed upon a staff member so close to retirement, but the Applicant herself bears the responsibility. The United Nations is entitled to expect a level of decorum and conduct from its staff members which is far above that displayed by the Applicant of defamation, hostility, and both veiled and actual threats.”

The Tribunal finds, in the instant case, that the Applicant’s presentation of the forged or erroneous document in the course of the investigation was sufficiently serious to justify, by itself, the sanction applied. The Tribunal considers, then, that the sanction was proportionate in the circumstances of the case.

VIII. The JDC, however, also mentioned that the Chief of the SSS had violated the Applicant’s procedural rights when he ordered a preliminary investigation without consulting his superiors and, particularly, by personally conducting the investigation when he was the party most affected by the faxes in question. In addition, the Applicant’s suspension might not have been opportune and the period of four years taken for the prosecution of the disciplinary case against the Applicant was too long.

The Tribunal cannot but deplore these breaches of the Applicant’s procedural rights but, on the other hand, considers that his attitude and lack of cooperation during the investigation, as found by the JDC, was below the standard of conduct expected from a staff member of this Organization.

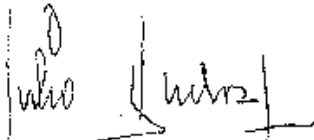
The Tribunal recalls its jurisprudence on the importance of due process in disciplinary matters. In Judgement No. 1058, *Ch’ng* (2002), it held that there are cases in which “the lack of due process at an early stage has an inevitable direct impact on the decisions in the following stages”. In Judgement No. 983, *Idriss* (2000), however, it found that, in other cases, initial shortcomings may be “fully redressed” in later proceedings, thus not resulting in loss or damage to the staff member. The Tribunal finds that the instant case comes under that category and, hence, declines to order compensation for violation of due process rights.

IX. In view of the foregoing, the Application is rejected in its entirety.

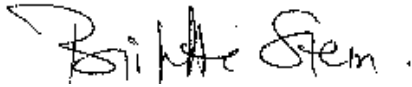
(Signatures)



Jacqueline R. **Scott**
Vice-President



Julio **Barboza**
Member



Brigitte **Stern**
Member

Geneva, 27 July 2007



Maritza **Struyvenberg**
Executive Secretary