



ADMINISTRATIVE TRIBUNAL

Judgement No. 1462

Case No. 1548

Against: The Secretary-General
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Spyridon Flogaitis, President; Sir Bob Hepple; Mr. Agustín Gordillo;

Whereas, on 17 July 2007, a staff member of the United Nations, filed an Application containing pleas which read, in part, as follows:

“II. PLEAS

1. ...[To find] that:

....

(b) the present [A]pplication is receivable under Article 7 of its [S]tatute.

2. ...[To] find that:

a) the Respondent failed to comply with its own Regulations and Rules in ensuring the completion of the [Applicant's] performance evaluation in a timely manner....;

b) the Respondent has violated Staff Rule 112 (g) and JAB [Joint Appeals Board] Rule III N. The Presiding Officer of the JAB failed to give notice to the [Applicant] when granting the Respondent an extension to a belated request;

c) the Respondent has violated the Applicant's due process rights as a result of the delays [during her appeal before the JAB];

d) the JAB Panel failed to properly consider the issues arising from the facts before it;

....

3. ...[To] order that:

the Respondent pay adequate compensation in the amount that the Tribunal may deem appropriate but in any event, the equivalent to or more than nine (9) months net base salary for violations of the Applicant's basic rights."

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 4 February 2008; and twice thereafter until 18 March;

Whereas the Respondent filed his Answer on 18 March 2008;

Whereas the Applicant filed Written Observations on 23 June 2008;

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

"Employment History

... [The Applicant] joined the United Nations in 1995, and worked as a P-2 Associate Internal Auditor with OIOS [Office of Internal Oversight Services] (Auditing Managing Consulting Division - European Section) in Geneva, Switzerland. In May 1997, she was granted a permanent appointment. Following her promotion to the P-3 level in November 1998, the [Applicant] joined OPPBA [Office of Programme Planning, Budget and Accounts] in New York as a Programme Budget Officer on 1 December 1998. On 2 November 2001, she was assigned to the Political, Legal and Humanitarian Service of the Programme Planning and Budget Division, OPPBA. She is currently working in this same position.

Summary of the facts

... On 9 December 2005, [the Applicant] wrote to the Secretary-General requesting an Administrative Review of the decision by the Administration not to respond in a timely manner to her Statement of Appeal of 24 May 2005, in accordance with the Staff Rules and Regulations, as well as of the continued failure of her Managers to complete her Performance Evaluation Report. [The Applicant] also informed the Secretary-General that, on 25 October 2005, not having heard from his designated representative, who should have submitted a reply within two months from receipt of the Appeal [by 24 July 2005 at the latest], she had written to the [JAB] enquiring on the status of said Appeal. The JAB informed her that, in August 2005, the Administration had requested an extension to 31 October 2005, which had been granted. She was copied neither the request nor the JAB Presiding Officer's response to the Administration, an oversight for which the JAB Secretariat had duly apologized. On 29 November 2005, she again wrote to the JAB and was once more informed that a further extension had been requested to 2 January 2006. In a letter dated 5 December 2005 to the JAB she protested the "granting of yet another extension and the continued violation of [her] rights."

... In a letter dated 15 December 2005, the OIC [Officer-in-Charge]/Administrative Law Unit submitted the Administrative Review, and called [the Applicant's] attention in particular to JAB Rule III.N. [citation omitted] She noted further that since the Administration had followed the Rules of Procedure and Guidelines set by the JAB at Headquarters, [the Applicant's] rights to due process had not been violated.

... By letter, dated 16 December 2005, [the Applicant] informed the JAB of her intention to proceed with the filing of her Appeal.

... On 21 December 2005, [the Applicant] filed her Appeal with the JAB.

... On 29 December 2005, the JAB acknowledged receipt of the Appeal, and, in accordance with past practice, informed the [Applicant] that the designated representative of the Secretary-General was obliged to submit a reply within a two-month time-frame and that, due to understaffing of the JAB office, she would be written only when her case was ready for review by a JAB panel. She was instructed to visit the JAB's website regularly to track the progress of her case.

... On 13 January 2006, [the Applicant] responded to that letter, regretting that the 'excuse' of understaffing was 'constantly being advanced by various offices in the internal administration of justice system as the reason for the tremendously slow pace of action, while pressure [was being] put on staff to comply with short time-frames' when it was the Staff's turn to act. [The Applicant] reserved the right to be informed in a timely manner of any request, correspondence or decision taken in her case so that she could exercise the option of commenting thereon.

... In a memorandum dated 20 January 2006, the Director, a.i., PPBD, OPPBA, advised the OIC/ALU that review of [the Applicant's] 2005-2006 PAS work plan had been delayed until December 2005 'owing to the exigencies of the work', in particular the 2005 World Summit Outcome, on which the complexity and political implications of the additional work had been well beyond what had been anticipated.

... On 6 February 2006, the Representative of the Secretary-General submitted the Respondent's Reply to the JAB.

... On 22 February 2006, [the Applicant] submitted Comments to the Respondent's Reply to the JAB.

... On 28 June 2006, [the Applicant] submitted additional information to the JAB, consisting of a memorandum she had sent that same day to her Chief of Service, [...], on the non-preparation of her mid-term review and PAS for the period 2005-2006.

... On 7 July 2006, Respondent wrote to the Secretary/JAB, stressing that the 'new material' had not been included in the Statement of Appeal and, consequently, she had not had the opportunity to address the issues, raised therein, concerning the Administration's compliance with ST/AI/2002/3 ('Performance Appraisal System') with regard to [the Applicant's] 2005-2006 PAS report. Under the circumstances, Respondent should be permitted to respond to the material and, on that basis, was attaching a memorandum dated 6 July 2006 from the Director, PPBD, for the Panel's consideration.

... On 1 August 2006, [the Applicant] submitted her Comments on Respondent's Reply to the additional information.

... On 21 August 2006, Respondent transmitted to the JAB a memorandum dated 16 August 2006 from the Director, PPBD, responding to [the Applicant's] 'latest submission'. Respondent also asked for confirmation that the file was now complete and that pleadings had been closed.

... On 25 August 2006, [the Applicant] submitted her response to the Respondent's 21 August correspondence and similarly requested that pleadings in the matter be closed.

... On 31 August 2006, Respondent submitted to the JAB a memorandum listing 'two factual inaccuracies contained in the [Applicant's] submission.'

... On 11 September 2006, [the Applicant] submitted a response."

The JAB adopted its report on 26 January 2007. Its considerations and recommendation read, in part, as follows:

“Considerations

25. Appellant has put before the Panel for its consideration, three broad Pleas. In an effort to be systematic, the Panel decided to consider each Plea separately.

26. In her first Plea, Appellant asks the Panel to compensate her for the damage caused to her professional career development as a result of the administration’s continued failure to comply with the Regulations and Rules of the Organization, specifically the untimely and undue delay in (i) responding to her initial appeal (of 24 May 2005); and (ii) producing, discussing and approving the work plan, the non-performance of a mid-term review as part of her performance evaluation of the period 1 April 2005-31 March 2006; as well as, (iii) the failure to observe the JAB rules in informing her of extensions given to Respondent.

27. Since Plea I (i) and I (iii) overlapped, the Panel focused its attention on those two requests first. In attempting to identify precisely the ‘administrative decision’ against which Appellant was appealing in this particular instance, the Panel questioned, for example, whether the delay in the Respondent’s response to Appellant’s appeal could be viewed as being as a result of an ‘administrative decision’, *per se*. The Panel ultimately agreed that there were two irrefutable points: First, that there had indeed been a delay of some five and a half months between the time Respondent should have submitted its Reply and the date the Reply was actually submitted; and secondly, that, in accordance with JAB Rule III.N, it was the Presiding Officer’s responsibility to inform Appellant that the Representative of the Secretary-General had requested an extension of the time-limit and that he intended to grant that request. The Panel decided therefore that it would be reasonable to examine the merits of these two Pleas.

28. Appellant contends that she submitted her Statement of Appeal to the JAB on 24 May 2005, with the expectation that Respondent would have replied, in accordance with the rules and regulations of the Organization, within sixty days. Not having received any information on when the Reply would be submitted, she wrote to the JAB, and to the Secretary-General on 25 October 2005, drawing his attention to this lapse. It was only then that she was informed by the JAB that, in August 2005, Respondent had requested an extension to 31 October 2005. Appellant observes that the JAB had apologized for this oversight. While she had been informed of Respondent’s second request for an extension, to 2 January 2006, Appellant was still of the view that the ‘granting of yet another extension’ was a ‘continued violation of her rights.’

29. The Respondent, citing Rule III.N of the JAB’s rules of procedure, argues that it had complied ‘fully’ with the provisions of that rule by requesting extensions of the time-limit on two occasions and by submitting its reply prior to the expiration of the final deadline set by the Presiding Officer. Respondent also observes that the decision to grant such a request is at the sole discretion of the Presiding Officer of the JAB, and that while the rules of procedure require that notice of such extension be given to Appellant, its granting is not subject to Appellant’s consent or agreement. Respondent also stressed that Appellant had been promptly informed when the second request for an extension was made.

30. After examining the arguments of both parties in some detail, the Panel was of the view that although Respondent had complied with the letter of the law, Respondent requesting a second extension may well have been viewed as a provocation, which perhaps could have been avoided. The Panel was inclined to agree with Appellant’s claims that, as a staff member and Appellant, she would possibly not have been allowed similar leeway. Also, the Panel observed, it could not agree more with Appellant’s contention that the rules and regulations of the Organization are meant to be respected by all staff. With regard to the JAB’s oversight in not informing Appellant

appropriately that Respondent had requested an extension, the Panel believed that it was indeed an 'oversight' -- a 'mistake'. A mistake that, it stressed, should not have happened and one that every effort should be made in future to prevent from happening again.

31. The Panel concluded, nonetheless, that neither the five-month extension granted to Respondent in replying to Appellant's appeal, nor the JAB's omission had been so severe in their impact on Appellant as to have caused her grievous harm or damage. The UNAT Judgements concerning 'inordinate delays' in the preparations of PASs, cited liberally throughout the arguments of both Appellant and Respondent, referred more often than not to periods of 2, 3 and 4 years delay. Obviously, those were far longer periods of time and, thus, the Panel believed, those cases could not rationally be compared to the particular circumstances surrounding this specific case, or the time-frame involved[.]

32. The Panel next deliberated on Plea II, which asked that the JAB direct the officials of OPPBA to approve Appellant's work plan for the period 2005-2006, that a belated mid-term review be conducted with immediate effect, and that Appellant's final evaluation be completed on or before 31 March 2006.

33. The Panel was aware that aspects of this matter had already been litigated by the JAB and decided upon by the Secretary-General. It thus did not have the competence to make recommendations on the history of this issue. Appellant herself observed that the matter of her having been deprived of the basic right of having [her] PAS conducted in a timely manner in accordance with the staff rules notwithstanding [her] repeated requests and demonstrations of cooperation with management had been 'substantially explored in [her] initial appeal.' Because of the proximity in time between the adoption of JAB Report No. 1804 (25 May 2006) and Appellant's submission of the current appeal, however, the Panel assumed that recommendations made in Report No. 1804 and the decision thereon, referred only to PASs ending on 31 March 2005.

34. Before deliberating on the PAS cycle referred to in the appeal (1 April 2005 to 31 March 2006) the Panel felt constrained to reiterate the oft-expressed requirement that, in accordance with Staff Rules and Regulations of the United Nations, all parties must make every effort to ensure that PASs are prepared in a timely manner. The PAS is one of the managerial tools used to make decisions on promotions, transfers, mobility, etc., the Panel stressed. Therefore, should the preparation of the various aspects of the PAS, including work plans, and reviews, be delayed, it stands to reason that, ultimately, the staff member is harmed, if only because it prejudices her applications for jobs, promotions, movement, all of which are an integral part of career development.

35. The Panel had difficulty accepting Respondent's argument that delays 'in the provision of Appellant's PAS report, and other staff within the Programme, Planning and Budget Division, for the 2005-2006 period were unavoidable, and were caused by exigencies of service.' Neither could it quite understand what Respondent meant in his contention that '[d]iscussions concerning the Appellant's work plan [had been] conducted as early as was possible, given the work demands faced by the Division.' The Panel felt that that excuse 'exigencies of service' and 'work demands' was simply 'too easy' for management to make, and were in fact no excuse at all. A manager beginning discussion on a work plan in December 2005, for a PAS cycle starting on 1 April 2005, was an unnecessarily long delay in getting the process started, especially when it should have been known by management that this particular work plan would require more in-depth consultations, between management and the staff member, than was normally the case. Further, the Panel noted that the back and forth with the work plan continued until nearly mid-March 2006, and the E-Pas period officially closed on 31 March 2006. The Panel observed that it had no way of knowing whether the PAS process for the period in question had been completed.

36. The Panel next looked at Plea III, in which Appellant states that, in accordance with GA resolution 59/283, the failure of administration officials in responding in a timely manner to

Appellant's Statement of Appeal and preparation of her PAS be reflected in the PASs of the officials concerned. The Panel believed that it had expressed itself clearly on the issue of managers' responsibility to ensure that the PAS schedules of their staff be strictly adhered to in accordance with PAS guidelines. The Panel recalled that one of the core values of the UN is 'accountability' and that, in a process which is so important to a staff member's career development, all parties are obligated to ensure that PASs are accurate and prepared in a timely manner. In this particular case, the Panel stressed that 'managers should lead by example.' The Panel further drew attention of management to GA resolution 59/283, para. 11, which states: '*Stresses* the importance of the proper implementation of a sound performance appraisal system as a potential means of avoiding conflict' and para. 13, which states: '*Further stresses* the need to link the ability of managers to respond in the course of a proceeding with their own individual performance appraisal.'

Recommendation

37. The Panel was mindful of Appellant's stated observation that her appeal against the decision not to have her matter considered in a timely manner was not specifically against the Administrative Law Unit/OHRM [Office of Human Resources Management], or the JAB and its Presiding Officer, but rather against the Secretary-General of the Organization under whose jurisdiction all of those parties performed their duties.

38. It urged all parties, particularly management, whose responsibility it was to expedite the process, to make every effort to ensure that the PAS for 2005-2006 was completed promptly, and that the one for 2006-2007 was finalized by 31 March 2007.

39. The Panel, noting that the Staff Member is not without remedy and that it had been unable to ascertain precisely which 'administrative decision' Appellant was appealing against, *unanimously agreed* to make no further recommendation on this case."

On 9 April 2007, the Under-Secretary-General for Management transmitted a copy of the report to the Applicant and informed her as follows:

"The Secretary-General has examined your case in the light of the JAB's report and all the circumstances of the case and has decided to accept the JAB's findings and conclusions. The Secretary-General has also decided, in accordance with the JAB's recommendations, not to take any further action in this case except to request OPPBA to ensure that the 2005-2006 appraisal be completed as soon as possible if it has not already been completed and that the 2006-2007 appraisal be completed in accordance with the administrative instruction concerning the Performance Appraisal System (ST/AI/2002/3) but no later than 30 April 2007."

On 17 July 2007, the Applicant filed the above-referenced Application with the Tribunal.

Whereas the Applicant's principal contentions are:

1. Her performance appraisal was not completed in a timely manner.
2. Her due process rights have been violated by the Respondent and the JAB ...
3. Her case was not correctly considered by the JAB.
4. She should be properly compensated.

Whereas the Respondent's principal contentions are:

1. The Applicant's rights were not violated in regards to her appraisal since it had not been completed because she refused to cooperate in the appraisal process.
2. The timing and manner in which the Applicant's appeal was considered by the JAB did not violate her rights.
3. This case should be considered in conjunction with the Applicant's Case No. 1509, which is also being considered during the present session.

The Tribunal, having deliberated from 29 June to 31 July 2009, now pronounces the following Judgement:

I. The Applicant makes two complaints. First, she complains that her rights were violated by the non-completion in a timely manner of a work plan and mid-point review for the period 1 April 2005 to 31 March 2006, which is a later period than those which formed the subject-matter of Case No. 1509. Second, she complains that her rights were violated by the way in which extensions of time were granted to the Respondent by the Presiding Officer of the JAB in Case No. 1509.

II. In regard to the first complaint before the JAB, the Respondent contended that delays "in the provision of the [Applicant's] PAS report, and other staff within the Programme, Planning and Budget Division for the 2005-2006 period were unavoidable, and were caused by exigencies of service". The Respondent also blamed "work demands faced by the Division". The JAB felt these excuses were "too easy to make"; indeed, they were no excuses at all. The JAB observed that a "manager beginning discussion on a work plan in December 2005, for a PAS cycle starting on 1 April 2005, was an unnecessarily long delay in getting the process started, especially when it should have been known by management that this particular work plan would require more in-depth consultations between management and the staff member, than was normally the case". The JAB noted that although the PAS period officially closed on 31 March 2006, the back and forth with the work plan continued until nearly mid-March 2006. The Respondent accepted the JAB's findings and conclusions, and decided to request OPPBA to ensure that the 2005-2006 appraisal be completed as soon as possible and that the 2007-2008 appraisal be completed in accordance with the administrative instruction no later than 30 April 2007.

III. The Applicant is dissatisfied with the JAB's recommendation because she was not awarded compensation. In this Application she seeks compensation for the violation of her rights, in an amount equivalent to or more than nine months' net base salary. The Respondent's replies that the Applicant is not entitled to compensation because of her refusal to co-operate in the PAS process. On 23 May 2007, the Chief of the Applicant's Service wrote to her requesting that she "take the necessary steps in the [...] to submit the PAS for the period 2005-2006" and proposing times to meet and discuss her performance for the period in question. On 29 May 2007, the Applicant wrote to the Chief of her Service stating that she would

not co-operate in the completion of her PAS process for a number of reasons: (1) The matter is currently pending on appeal before this Tribunal; (2) the matter is outside the current period of review and is more than six months past the end of the PAS cycle in question; (3) it may have been an error of law for the JAB to recommend, and the Respondent to instruct, that her PAS for the period 2005-2006 be conducted *ex post facto*; and (4) there cannot be a performance evaluation exercise two years later without a working plan having been approved in 2005. On 7 March 2008, the Applicant wrote to the OIC, OHRM, to reaffirm her unwillingness to co-operate in the completion of her PAS process for 2005-2006 and to give notice that she would not participate in the process for 2006-2007 for the same reasons.

IV. The Tribunal is seized only of the issue relating to the 2005-2006 PAS process, and does not make any findings in relation to subsequent performance evaluations that may or may not have taken place. The purpose of the PAS, as stated in section 2 of ST/AI/2002/3 is to improve the delivery of programmes by optimizing performance at all levels. It is a management tool based on linking individual work plans with those of departments, promoting two-way communications between staff members and supervisors, encouraging continuous learning, fostering teamwork, and assisting in planning career development. To achieve these aims it is essential that all parties make every effort to ensure that PASs are prepared in a timely manner. It is undisputed in the present case that the Applicant submitted her work plan for the 2005-2006 period on 28 March 2005; that the unit work plan was submitted by her supervisors only in July 2005 (more than three months after the start of the review period); that the Applicant wrote to the first and second reporting officers expressing “deep regret” that her work plan for the period had not been discussed and approved (more than seven months after the start of the period), and did so again on 29 November and 9 December 2005. The first discussion on the work plan took place on 12 December 2005, and after going back and forth was signed by the first reporting officer on 10 March 2006, just three weeks before the end of the review period. As already noted, the JAB rejected the Administration’s excuses for the “unnecessarily long delay” in getting the PAS process started. In the Tribunal’s judgement, this amounts to a clear finding that there was a violation of the Applicant’s rights to have a work plan approved before the beginning of the review period and to have a mid-point review. The Respondent now relies on the alleged non-cooperation by the Applicant more than a year after the end of the review period, when the Respondent sought to implement the JAB’s recommendation. That subsequent conduct cannot affect the finding that there had been a violation of her rights, but it may potentially affect the amount of compensation that she should be awarded. At the same time, the Tribunal does not accept the Applicant’s statement that “it may have been an error of law for the JAB to recommend, and the Respondent to instruct, that her PAS for the period 2005-2006 be conducted *ex post facto*”. Nor does the Tribunal accept her contention that, for purposes of the PAS process, she should be deemed fully satisfactory because of delays in the completion of her PAS process. The provisions of section 6.6 of ST/AI/2006/3 (and earlier versions) are applicable only in the context of the staff selection process, not the PAS process.

V. The Tribunal accepts that the violation of the Applicant's rights in respect of the 2005-2006 review process, occurred in the context of a long and disgraceful failure by officers in her Department to show leadership and to operate the PAS system in a timely and appropriate manner (see also Case No. 1509 also reviewed during the Tribunal's present session, resulting in Judgement No. 1437). The JAB made no recommendation as to compensation in respect of this violation of the Applicant's rights. In the judgement of this Tribunal, the delay has caused significant harm to the Applicant's career development; as well as stress and anxiety; and contributed to discordant staff relations. Having regard to the injury sustained, but also bearing in mind the Applicant's non-cooperation in the late completion of the PAS process, the Tribunal finds it just to award the Applicant six months' net base salary in respect of this violation.

VI. The Tribunal next considers the Applicant's complaint about the Respondent's failure to respond in a timely manner to her statement of appeal in Case No. 1509 dated 24 May 2005 (received 27 May 2005), and the failure of the JAB to inform her of the extensions granted to the Respondent to file a Reply. The JAB found that there had been a delay of some five and a half months between the time the Respondent should have submitted his Reply (i.e., within two months of the receipt of the appeal, 27 July 2005), and the date the Reply was actually submitted (14 December 2005). Later in its Report the JAB refers to a "four and a half month" delay, which appears to be the correct calculation. This finding of delay is not disputed. Nor is it disputed that the Presiding Officer of the JAB did not notify the Applicant that in August 2005 the Respondent had requested and had been granted an extension until 31 October 2005. This plainly violated JAB Rule III.N, which provides that if the Representative of the Secretary-General requests an extension of the time limit for reasons stated, the Presiding Officer, "upon notice to the [Applicant], may grant the request and set a new deadline..." The JAB apologized for this omission. It is also not disputed that on 30 November 2005, the Secretariat of the JAB informed the Applicant that the Respondent had been given a further extension, until 2 January 2006, to file a reply to the statement of appeal. On 9 December 2005, the Applicant submitted a request for administrative review in the other case and on 14 December 2005, the Respondent submitted a reply to the statement of appeal. The JAB found that its failure to inform the Applicant of the first extension had been an "oversight" or "mistake" that should not have happened and should be avoided in the future. The JAB described the second extension as a "provocation" and was inclined to agree with the Applicant that she would not have been granted similar lee-way. Nonetheless, the JAB concluded that neither the extension granted nor the JAB's omission had been sufficiently severe in their impact on the Applicant to have caused "grievous" harm or damage.

VII. It is a maxim common to all legal systems that "justice delayed is justice denied", and this Tribunal has repeatedly stressed that all staff members are entitled to a prompt resolution of disputes. The Tribunal attaches great importance to prescribed time limits being observed by all parties, including the Respondent. However, the issue in the present case is whether the Presiding Officer of the JAB properly exercised his discretion to grant extensions, and the legal effect, if any, of the failure to notify the Applicant

of the first extension. In a memorandum dated 25 October 2005, the explanation given by the Secretariat of the JAB for the first extension was that that it could process the case before 31 October 2005 “and considering the backlog facing the Administrative Law Unit of OHRM, which acts as the [Secretary-General’s] representative in your case, the JAB Presiding officer granted the extension request to 31 October 2005”. The reason given for not notifying the Applicant was that “[the JAB had] no resources to take care of this extra procedural step”. The Tribunal notes that the second extension to 2 January 2006 was requested only on 30 November 2005, some ten days after the Applicant had informed the JAB secretariat that she still had not received the Respondent’s Reply. No explanation was given for the second extension, despite the strong representations made by the Applicant in her memorandum of 5 December 2005 to the JAB, that the Administration was “manipulating the process”. The Tribunal deplores the failure of the JAB to notify the Applicant of the first application for an extension. JAB Rule III.N clearly envisages that the party applying for an extension should state reasons for the application, and the Presiding Officer should decide only “upon notification” to the other party. The reasons given for the first extension had nothing to do with reasons, if any, put forward by the Respondent, but were based solely on the convenience of the JAB in the light of its workload. No reasons at all were stated for the second extension. The Tribunal finds this practice unacceptable. This was an abuse of the Presiding Officer’s discretion. Although the Secretary-General did not mislead the JAB, the Organisation was responsible for the delay and cannot use this as an excuse for the errors of the JAB, which have caused stress and anxiety to the Applicant, and delayed consideration of her case. The Tribunal finds that the award of three months’ net base salary is an appropriate compensation for the violation of the Applicant’s rights by the JAB.

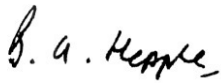
VIII. Accordingly, the Tribunal:

1. Awards the Applicant six months’ net base salary in respect of the violation of her rights relating to the incomplete PAS for the period 2005-2006, payable at eight per cent per annum as from 90 days from the date of distribution of this Judgement until payment is effected;
2. Awards the Applicant a further three months’ net base salary in respect of the violation of her rights by the JAB, payable at eight per cent per annum as from 90 days from the date of distribution of this Judgement until payment is effected; and
3. Rejects all other pleas.

(Signatures)



Spyridon **Flogaitis**
President



Bob **Hepple**
Member



Agustín **Gordillo**
Member

Geneva, 31 July 2009



Tamara **Shockley**
Executive Secretary