



**Before:** Judge Teresa Bravo

**Registry:** Geneva

**Registrar:** René M. Vargas M.

SAMANDAROV

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Susan Maddox, ALS/OHRM, UN Secretariat

Jonathan Croft, ALS/OHRM, UN Secretariat

## **Introduction**

1. By application filed on 17 September 2016, the Applicant, a former staff member of the United Nations Assistance Mission in Afghanistan (“UNAMA”) challenges the decision of the Under-Secretary-General for Management (“USG, DM”) to impose on him the disciplinary measures of written censure and loss of two steps in grade, pursuant to staff rule 10.2(a)(i) and (ii).
2. The application was served on the Respondent, who filed his reply on 14 October 2016.
3. The Tribunal held a case management discussion on 14 September 2017, in which it was agreed to hold a hearing on the merits that was conducted on 25 and 26 October 2017.

## **Facts**

4. The Applicant joined the Organization in 2010 and was based in Paris, France. In July 2015, he was reassigned to UNAMA, Kunduz office, to work as an Associate Human Rights Officer. The Applicant arrived in Afghanistan on 27 July 2015 to take up his new functions.
5. Two months after his arrival, on 28 September 2015, Taliban forces attacked and took control of Kunduz city. The UNAMA Kunduz office was equally overrun by the Taliban forces, and UNAMA evacuated all its national and international staff from the Kunduz office to alternative locations such as Kabul. During the attack, the UNAMA offices and staff residences, among other premises, were invaded and ransacked, and property was destroyed and looted.
6. During the Taliban attack, the Applicant was *en route* to Kunduz from Kabul. As a result, he was stopped from going to Kunduz and was asked to remain in Kabul. He described the living and working conditions in Kabul as unbearable for months.

7. On 26 October 2015, the Applicant went to the gymnasium located inside the UNAMA compound to exercise. In the gymnasium, he placed some of his belongings on an exercise bench while he worked out.

8. A staff member (“the complainant”) came and moved the Applicant’s belongings from the exercise bench because she wanted to use it. An altercation ensued, there was an argumentative exchange and, afterwards, the complainant asked the Applicant for his name since she did not know him. The Applicant did not give his name but referred the complainant to the sign-in book at the entrance of the gymnasium. The complainant then decided to take a photo of the Applicant using her mobile phone. The Applicant was displeased by the act of his photo being taken and he verbally threatened to break the complainant’s phone if she took a photo of him.

9. The complainant then contacted the then UNICEF Security Advisor, who came to the gymnasium, and explained to him her side of the story. Later on the day of the incident, the UNICEF Security Advisor decided to call the Applicant and to ask him about his version of events. Subsequently, both the Applicant and the complainant returned to the gymnasium and continued exercising.

10. On 29 October 2015, the complainant made a report of the incident at the gymnasium to the Chief Security Officer at UNAMA, who then forwarded the complaint to the Special Representative of the Secretary-General for Afghanistan (“SRSG”), who in turn instructed the Chief Security Officer, UNAMA, to conduct a full investigation into the gymnasium incident.

11. The Investigation was conducted by the Deputy Chief, Special Investigations Unit (“SIU”). The complainant, the Applicant, two eyewitnesses to the gymnasium incident and the UNICEF Security Advisor provided the investigator with their statements.

12. The investigator submitted his report, dated 29 November 2015, to the Chief Security Officer, UNAMA, who forwarded it on 10 December 2015 to the SRSG for further action. On 10 February 2016, the SRSG referred the matter to the Assistant Secretary-General for Field Support (“ASG, DFS”).

13. On 23 February 2016, the ASG, DFS, referred the matter to the Assistant Secretary-General, Office of Human Resources Management (“ASG, OHRM”), and on 17 March 2016, the Chief, Human Resources Policy Service, OHRM, wrote a memorandum to the Applicant with allegations of misconduct against him. The Applicant was requested to provide a response to the allegations of misconduct, which he did on 16 May 2016.

14. By letter dated 13 June 2016 (“sanction letter”), the ASG, OHRM, conveyed to the Applicant the decision of the USG, DM, to impose a disciplinary measure of written censure and loss of two steps in grade in accordance with staff rules 10.2(a)(i) and (ii) for threatening to break the complainant’s mobile phone.

### **Parties’ submissions**

15. The Applicant’s principal contentions can be summarized as follows:

- a. His threat to the complainant was “conditional” and not “direct”;
- b. The disciplinary sanction is unlawful, improper and he was not provided with procedural fairness throughout the investigation and disciplinary process;
- c. The investigation process was tainted by bias, and unprofessionalism and the Organization relied on false information;
- d. The complainant’s and witnesses’ account of the event had obvious flaws and inconsistencies;
- e. The two witnesses who gave their statements did not take an oath to state the truth before giving them and, thus, they did not have the evidential value of a sworn statement; and
- f. The Chief Security Officer, UNAMA, launched the investigation with a predetermined outcome in mind, namely that the complainant’s report indicated the Applicant’s misconduct and, thus, the investigation process was biased.

16. The Respondent's principal contentions can be summarized as follows:
- a. The evidence on record established that the Applicant's conduct amounts to misconduct;
  - b. The Applicant had other choices, like walking away from the complainant and desisting from engaging with her, but he did not opt for them;
  - c. The Applicant has not produced any substantial evidence of investigatory bias, nor has he indicated impropriety in the investigation;
  - d. The fact that the Applicant was living and working in difficult conditions, that he had lost his possessions as a result of the Taliban attack, and that he was experiencing heightened stress due to long working days, did not justify his actions;
  - e. The decision-maker considered the above factors when imposing sanctions against the Applicant, and found that they were not mitigating; and
  - f. The decision of the USG, DM, was reasonable, proper, and proportionate given the conduct at issue; furthermore, he acted within his authority and discretion in making it.

### **Consideration**

#### *The scope of judicial review in disciplinary cases*

17. The Applicant challenges the decision taken by the USG, DM, to impose on him disciplinary measures of written censure and loss of two steps in grade. He requests the annulment of the disciplinary sanctions, and the commission of a new investigation into the allegations.

18. The Appeals Tribunal has held that judicial review is focused on how the decision-maker reached the impugned decision, and not on the merits of the decision-maker's decision (see *Sanwidi* 2010-UNAT-084, *Santos* 2014-UNAT-415).

19. Furthermore, the Appeals Tribunal has determined what this Tribunal's role is when reviewing disciplinary cases (see *Mahdi* 2010-UNAT-018 and *Haniya* 2010-UNAT-024). In the case at hand, this Tribunal considers that the issues to be examined are:

- a. Whether the facts on which the disciplinary measure was based have been established;
- b. Whether the established facts legally amount to misconduct under the Regulations and Rules;
- c. Whether the Applicant's due process rights were respected during the investigation and the disciplinary process; and
- d. Whether the disciplinary measure applied is proportionate to the offence.

*Have the facts on which the disciplinary measure was based been established?*

20. Regardless of the standard of proof applied, the facts of the case as recounted above are undisputed (see *Molari* 2011-UNAT-164, in particular para. 31). They were first established during the investigation process and confirmed during the hearing by the Applicant and the testimony of two eyewitnesses. Furthermore, the Tribunal heard testimony from the investigator and the security officer who recorded the complainant's report.

21. After consideration of the oral testimony, the statements of the witnesses, and the Applicant's version of events, the Tribunal does not find any evidence of ill-motivation on the part of the witnesses, and is satisfied that the facts related to the allegations against the Applicant are established.

*Do the established facts amount to misconduct?*

22. The Staff Regulations and Rules (ST/SGB/2016/1) applicable at the time of the incident, provide the following at staff rule 10.1(a):

Failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant may amount to misconduct.

23. Article 1 of the staff regulations stipulates the duties, obligations and privileges of staff members. Staff regulation 1.2 specifies the “Basic rights and obligations of staff” and reads as follows in its relevant parts:

**Core values**

(a) Staff members shall uphold and respect the principles set out in the Charter, including faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. Consequently, staff members shall exhibit respect for all cultures; they shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them.

...

**General rights and obligations**

...

(f) While staff members’ personal views and convictions, including their political and religious convictions, remain inviolable, staff members shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. They shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations.

24. In *Ogorodnikov* 2015-UNAT-549, the Appeals Tribunal found that misconduct “must be viewed in terms of the nature of the mission, purpose and principles of the United Nations and the impact [that the] type of misconduct can have on the Organization’s reputation, credibility and integrity”.

25. The Tribunal is of the view that the Applicant's established behaviour, especially the threat to break the complainant's phone, amounts to misconduct since it goes against the core values and obligations of staff members enshrined in the Staff Regulations.

*Applicant's due process rights during the investigation and disciplinary process*

26. The Applicant questions the lawfulness of the investigation process alleging that bias and flaws tainted it. He submits that during the investigation, the witnesses did not take an oath or affirmed to speak the truth before their statements were recorded. He also claims that he was not accorded procedural fairness throughout the investigation and subsequent disciplinary process because the investigation was aimed at finding him culpable. He further argues that the investigator framed questions in such a way that the eyewitnesses' statements could not contradict each other, and that the similarity of the statements pointed at collusion. In addition, the Applicant noted that the witnesses could not properly identify what he was wearing on the day of the incident.

27. In examining the lawfulness of a disciplinary process, the Tribunal will refer to the specific legal framework that was applied in the handling of the Applicant's case. The SIU, UNAMA, conducted the investigation into the complainant's complaint pursuant to ST/AI/371 (Revised Disciplinary Measures and Procedures) as amended.

28. In *Messinger* 2011-UNAT-123, the Appeals Tribunal held that it is not the task of the Dispute Tribunal to conduct fresh investigations but rather to determine if there was a proper investigation into the allegations.

29. The Tribunal has reviewed the investigation file on record. It shows that a complainant lodged a complaint with the SIU, which was forwarded to the SRSG who requested the Chief of Security to conduct an investigation during which the complainant, the Applicant, the witnesses and the security officer called to the gymnasium were interviewed. The record of the interviews and documents were forwarded to the SRSG who, upon advise of the conduct and discipline unit, forwarded the file to DFS and then to OHRM for action.

30. The ASG, OHRM decided to charge the Applicant who was given the investigation report together with the supporting documents to provide his comments in response to the allegations of misconduct. The charge letter, informed the Applicant of his right to seek the assistance of counsel in his or her defence, and offered him information on how to obtain such assistance. These are the basic standards of due process in the Organization and they were accorded to Applicant.

31. The Applicant sent his comments to the allegations of misconduct to OHRM after requesting and being granted additional time to respond to the charge letter.

32. Regarding the Applicant's argument that the witnesses did not take an oath the Tribunal recalls that those same witnesses took their oath at a later stage when the SRSB remanded the case back to the Investigation's unit for that specific purpose.

33. The onus is on the Applicant to provide proof of the lack of due process and how it negatively impacted the investigation and or disciplinary process. However, other than making the allegations, the Applicant has not provided substantial evidence that his due process rights were violated during the investigation and or disciplinary process.

34. Having considered all the documents and evidence produced in this case, the Tribunal concludes that throughout the investigation and disciplinary process, there is no evidence of bias or any procedural irregularity and that, as a consequence, the Applicant's due process rights were not violated.

*Proportionality of the disciplinary measure applied*

35. The Secretary-General has the discretion to impose a sanction on a staff member for misconduct. However, this discretion is not unfettered, for there is a duty to act fairly and reasonably in sanctioning staff members and issuing sanctions that are proportional to the alleged offence. One of the grounds under which the Tribunal may interfere with the Administration's discretion in sanctioning staff members is lack of proportionality.

36. The principle of proportionality means that a sanction should not be more excessive than is necessary for obtaining the desired result. The Tribunal is mindful that the matter of the degree of the sanction is usually reserved for the Administration, who has discretion to impose the measure that it considers adequate to the circumstances of the case, and to the actions and behaviour of the staff member involved (see *Portillo Moya* 2015-UNAT-523). Once misconduct has been established, the level of sanction can only be reviewed in cases of obvious absurdity or flagrant arbitrariness (cf. *Aqel* 2010-UNAT-040).

37. The principle of proportionality is a general legal principle. Principles embody the essential dimension of law as a living social construct that can change over time and accommodate different social values. Consequently, proportionality can serve as an analytical tool for assessing how, in practice, authorities employ their margin of appreciation to delineate rights.

38. In the context of disciplinary cases, proportionality comes into play as an essential principle that guides the decision-maker when choosing the appropriate sanction—according to the gravity of an offence and the specific circumstances of a case—from a set of different possible ones.

39. Proportionality has to be understood as a limit to the discretionary power of the decision-maker in the name of fairness and equity. This implies that the decision-maker has to consider all aggravating *and* mitigating circumstances of a case.

40. In *Sanwidi* 2010-UNAT-084, the Appeals Tribunal held that

In the context of administrative law, the principle of proportionality means that an administrative action should not be more excessive than is necessary for obtaining the desired result. The requirement of proportionality is satisfied if a course of action is reasonable, but not if the course of action is excessive. This involves considering whether the objective of the administrative action is sufficiently important, the action is rationally connected to the objective, and the action goes beyond what is necessary to achieve the objective. This entails examining the balance struck by the decision-maker between competing considerations and priorities in deciding what action to take. However, courts also recognize that decision-makers have some latitude or margin of discretion to make legitimate

choices between competing considerations and priorities in exercising their judgment about what action to take.

41. It remains for the Tribunal to determine whether in light of all the circumstances, the sanctions of written censure *and* loss of steps in grade imposed on the Applicant, for the misconduct of verbally threatening to break another staff member's mobile phone, was proportionate.

Misconduct vis-à-vis the imposed disciplinary measures

42. The sanction letter conveyed to the Applicant that it was established that he had “threatened to break the cellular phone of [the complainant] after [he] and [her] had a disagreement related to the use of the UN exercise facility”.

43. The Tribunal notes that the Applicant's threat was exclusively addressed against an object—the complainant's mobile phone—and not aimed at the physical integrity of the complainant. Furthermore, the Tribunal recalls that neither the investigator, nor the witnesses, or the security officer called to the gymnasium reported any fear of bodily harm for or to the personal safety of the complainant. In fact, after the security officer talked to the Applicant and the complainant, both returned to the same gymnasium and continued with their workout. This was confirmed during the hearing by both the eyewitnesses and the security officer.

44. Also, while the threat to break the complainant's mobile phone amounts to verbal abuse and constitutes misconduct as explained above, it remained a verbal threat; the Applicant did not even touch the complainant's phone and did in no way attempt to damage it. In this connection, the Tribunal notes that the sanction letter casts doubt on whether the decision-maker properly determined the appropriate sanction. Indeed, the sanction letter states that the USG, DM “considered the past practice of the Organization in cases in which staff members [had] engaged in verbal abuse and/or *made threats against staff members or other individuals*” (emphasis added).

45. In light of the above, the Tribunal is of the view that in this case, the imposition of two concurrent sanctions, namely a written censure and the loss of two steps in grade, already appears excessive in light of the established misconduct of a verbal threat against the integrity of an object, which did not materialize.

46. Moreover, the Tribunal is concerned that the sanctions appear even more excessive in light of the circumstances and events preceding the gymnasium incident, as it will be developed below.

Facts prior to the gymnasium incident

47. Two months after the Applicant's arrival to his duty station in Kunduz, Afghanistan, Taliban forces attacked and took control of Kunduz city. The UNAMA Kunduz office and staff quarters were also overrun by Taliban forces and this necessitated an emergency evacuation of United Nations staff from Kunduz to other locations for their safety.

48. During the Taliban attack, the Applicant was *en route* to Kunduz from Kabul and was requested to remain in Kabul. He could not take any of his personal belongings, other than what he already had with him, and lost all of them to looting and destruction by the Taliban in Kunduz.

49. It is worth noting also that it was only 20 months after the facts, following a strenuous and lengthy administrative process, that the Organization recognized adequate compensation to the Applicant (USD12,000) for his loss of personal belongings during the attack.

50. Furthermore, while in Kabul, the Applicant was lodged in a transit container due to the shortage of proper accommodation. In essence, "transit containers" are used by staff members in transit to other places and are not suitable for long term accommodation. Yet, the Applicant was housed there from September to December 2015 before moving to Mazar-i-Sharif, UNAMA Regional Office.

51. The Applicant's description, of the living and working conditions in Kabul after the Taliban attack was not challenged by the Respondent. In his application to the Tribunal, the Applicant described the conditions in Kabul as follows:

We did not have proper office space as only two small containers were allocated for [the] entire team of evacuated Kunduz office (around 50 staff members) and one set of computer, chair and table was shared by 5-6 staff members. While most of evacuated staff members were placed in very nice hard wall apartment accommodations[,] I was placed in a tiny and dirty transit container due to the shortage of the hard wall accommodation.

52. During this period, the Applicant was an Associate Human Rights Officer and his professional duties included recording human rights violations in Kunduz. After the Taliban attack, the Applicant worked till late hours and throughout the weekends for several weeks.

53. The Applicant testified that during the period after the Taliban attack, he experienced a lot of stress and anxiety, developed several body pains and could not sleep properly. He added that he had a medical prescription for pain killers, had talked to counsellor informally about his situation, and that the loss of all his personal belongings, leaving him merely with what he had in his possession at the time of the attack, made him anxious. Therefore, anyone touching the Applicant's belongings made him apprehensive, especially considering that the incident occurred less than a month after losing all his personal belongings and being evacuated to Kabul.

54. During the Applicant's interview at the investigation stage, he explained to the investigator the extremely stressful circumstances he had been operating under. However, none of these details were included in the investigation report as the investigator summarised the statements of the persons interviewed.

55. During the hearing, when asked about any mitigating factors in regard to the Applicant's conduct during the gymnasium incident, the investigator responded that the Applicant may have been exposed to prior psychological stress, especially considering the reason why he was in Kabul. However, the investigator testified that he was not a psychologist and did not have the expertise to analyse the matter further.

56. In the sanction letter, the ASG, OHRM, recounted the Applicant's response to the allegations, and noted his working in stressful conditions as well as him having lost personal belongings. However, when determining the appropriate sanction, the ASG, OHRM, reported that the USG, DM, did not find any mitigating or aggravating factors applicable to the Applicant's case.

57. The Tribunal underlines that special consideration must be given to the circumstances of each case. Not only was the Applicant facing challenges related to the performance of his official functions with regard to reviewing and reporting on civilian casualties as a result of a Taliban attack, but he also was a victim of it. He lost all his personal belongings, was evacuated to Kabul, housed in a temporary transit container, and shared office space and equipment in another container with other staff members.

58. The Tribunal appreciates that the United Nations has many staff members serving in field missions and in extreme hardship conditions, which in and of themselves are not a mitigating factor when assessing misconduct. However, when United Nations premises and staff members' accommodations are attacked and looted, and such attack results in evacuation and loss of personal belongings, it is obvious that such events will have an impact on and can be quite traumatic for the concerned staff members.

59. A joint special report on Kunduz of UNAMA and the United Nations Office of the High Commissioner for Human Rights (“OHCHR”) of December 2015,<sup>1</sup> in part reads as follows:

### **Summary**

The report covers the period from 28 September to 13 October 2015 and presents the preliminary findings by UNAMA regarding civilian protection concerns, potential violations of international humanitarian law and human rights violations and abuses following the Taliban’s attack and control of Kunduz city, the initial phase of the counter-offensive by pro-Government Forces and the period that ensued until Government forces regained control of the city.

The report documents harm inflicted on civilians and civilian property, and related human rights concerns. UNAMA received credible reports of 848 civilian casualties (289 deaths and 559 injured) that occurred in Kunduz city and surrounding districts between 28 September and 13 October. These figures are preliminary and may increase as UNAMA continues its efforts to verify additional civilian casualty reports with three types of sources. The vast majority of casualties documented so far resulted from ground fighting that could not be attributed solely to one party, and 67 of these casualties (30 deaths and 37 injured) resulted from an airstrike carried out by international military forces on a *Médecins Sans Frontières* (MSF) hospital on 3 October.

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### **Methodology**

The findings of this report are based upon 326 interviews conducted by UNAMA human rights staff, between 28 September and 1 December 2015, with residents of Kunduz city and civilians displaced to other locations in Afghanistan, including Mazar-e-Sharif city (Balkh province), Taloqan city (Takhar province), Faizabad city (Badakhshan province) and Kabul city.

UNAMA carried out 136 face-to-face interviews with victims and witnesses displaced from Kunduz. It also conducted over 190 telephone interviews, with victims, witnesses and other directly involved persons including medical practitioners, community leaders, Government officials and other interlocutors. The findings set out in this report are primarily based on the credible and consistent accounts provided by these multiple and varied sources.

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<sup>1</sup> Afghanistan, Human Rights and Protection of Civilians in Armed Conflict, Special Report on Kunduz Province (available at [https://unama.unmissions.org/sites/default/files/special\\_report\\_on\\_kunduz\\_province\\_12\\_december\\_2015-english.pdf](https://unama.unmissions.org/sites/default/files/special_report_on_kunduz_province_12_december_2015-english.pdf)).

Due to insecurity and the relocation of all staff from the UNAMA office in Kunduz, human rights officers could not conduct investigations in Kunduz city.

In addition to gathering information from primary sources on specific incidents, UNAMA obtained data from hospitals and other medical facilities. The Department of Public Health in Kunduz provided UNAMA with figures of injured civilians treated in its facilities (as well as the number of dead civilians it received) up to 3 October, after which all major health facilities in Kunduz city ceased functioning or stopped recording civilian casualty figures due to limited staffing and the high volume of patients. UNAMA obtained additional information from the Department of Health in Kunduz province after they resumed normal operations. UNAMA also obtained data on injured civilians treated in the MSF hospital before it was hit by an airstrike on 3 October.

UNAMA also obtained data on injured civilians from Kunduz treated in Department of Public Health hospitals in Taloqan (Takhar province), Pul-i-Khumri (Baghlan province), and Mazar-e-Sharif (Balkh province). Whilst the Department of Public Health categorized its figures as representing “civilian casualties”, UNAMA has not yet been able to fully verify the status of each of the reported victims.

60. The Applicant, as an Associate Human Rights Officer, was among the staff of UNAMA who gathered evidence, conducted interviews, and visited hospitals to verify information, among other activities, days after the Taliban attack in Kunduz and the loss of all his personal belongings. The attack on Kunduz city was horrific and was followed by events such as the attack on *Médecins Sans Frontières*’ hospital. The then United Nations Special Representative of the Secretary-General in Afghanistan, described the attack on Kunduz city as follows:

Citizens of Kunduz were subjected to a horrifying ordeal. The street by street fighting coupled with a breakdown of the rule of law created an environment where civilians were subjected to shooting, other forms of violence, abductions, denial of medical care and restrictions of movement out of the city.

61. The United Nations High Commissioner for Human Rights stated the following in a public statement about the attack against the *Médecins Sans Frontières*’ hospital:

This event was utterly tragic, inexcusable, and possibly even criminal. International and Afghan military planners have an obligation to respect and protect civilians at all times, and medical facilities and personnel are the object of a special protection. These obligations apply no matter whose air force is involved, and irrespective of the location.

62. The Tribunal finds that such factors must be fully considered when a decision-maker exercises discretion with respect to the disciplinary measure to be imposed on a staff member for misconduct that occurred shortly after such an attack. It is without doubt, that in this case they are essential to a full understanding and assessment of the gymnasium incident.

63. The Applicant's sense of belonging and ownership had been reduced to such a bare minimum, that he was understandably bound to be very protective of the few belongings he had been left with, irrespective of their value. As reported by the complainant, she touched and moved the Applicant's belongings from a working bench so that she could use it. In as much as this could be perceived as a simple act and the Applicant's reaction as being uncalled for, knowledge of the above-mentioned factors assist in contextualizing the Applicant's reaction.

64. In view of the foregoing, the Tribunal finds that there existed reasonable and adequate grounds that should have been considered as mitigating factors in the Applicant's case, and that the cumulative imposition of a written censure *and* the loss of two steps in grade on him was excessive, unreasonable and disproportionate to the misconduct.

## **Conclusion**

65. In view of the foregoing, the Tribunal DECIDES:

- a. That the application is partially granted;
- b. That the cumulative imposition of a written censure *and* the loss of two steps in grade was excessive, unreasonable and disproportionate to the misconduct; and
- c. To rescind the disciplinary measure of loss of two steps in grade.

66. As a result of the above rescission, the Organization shall:
- a. retroactively place the Applicant at the step he should have been prior to the imposition of the rescinded disciplinary measure;
  - b. recalculate the Applicant's step increments accordingly; and
  - c. pay the Applicant the loss of salary that he suffered as a result of the loss in steps, with interest on that amount at the current US Prime Rate.
67. If payment of the above amount, namely loss of salary with interest, is not made within 60 days of the date at which this judgment becomes executable, five per cent shall be added to the US Prime Rate from the date of expiry of the 60-day period to the date of payment.

*(Signed)*

Judge Teresa Bravo

Dated this 14<sup>th</sup> day of December 2017

Entered in the Register on this 14<sup>th</sup> day of December 2017

*(Signed)*

René M. Vargas M., Registrar, Geneva