



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2021-UNAT-1075

Yves P. Nadeau

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

JUDGMENT

Before: Judge Martha Halfeld, Presiding
Judge Sabine Knierim
Judge Jean-François Neven

Case No.: 2020-1358

Date: 30 October 2020

Registrar: Weicheng Lin

Counsel for Appellant: Peter A. Gallo

Counsel for Respondent: André Luiz Pereira de Oliveira

Reissued on 13 January 2021 for technical reasons

JUDGE MARTHA HALFELD, PRESIDING.

1. Mr. Yves P. Nadeau, a former staff member of the Investigations Division of the Office of Internal Oversight Services (OIOS), has appealed against Judgment No. UNDT/2019/168 of the United Nations Dispute Tribunal (UNDT or Dispute Tribunal), which granted his application in part, finding that the Administration's response to his complaint under Section 3.2 of ST/SGB/2008/5 was adequate but untimely; and rejected his request for compensation.

2. On appeal, the United Nations Appeals Tribunal (Appeals Tribunal) partially grants the appeal and modifies the UNDT Judgment in that the Administration's response to Mr. Nadeau's complaint under Section 3.2 of ST/SGB/2008/5 was, apart from untimely, inadequate.

Facts and Procedure

3. On 18 February 2015, Mr. Nadeau, a former team leader and investigator at the P-4 level with OIOS, filed a complaint pursuant to Section 3.2 of Secretary-General's Bulletin ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority) against the then Under-Secretary-General of OIOS (USG/OIOS) for failing to take appropriate action against OIOS staff members for allegedly harassing and retaliating against their colleagues and committing wrongdoings identified as misconduct.

4. By e-mail of 8 May 2015, the Director of the Office of the Under-Secretary-General for Management (Director and OUSGM, respectively) informed Mr. Nadeau that OUSGM had been requested by the Executive Office of the Secretary General to review the matter and that they would revert in due course.

5. On 19 August 2015, Mr. Nadeau filed a request for management evaluation challenging the Secretary General's failure to take action upon receipt of a complaint filed under ST/SGB/2008/5.

6. By e-mail to Mr. Nadeau of 21 August 2015, the Director confirmed that the matters Mr. Nadeau had raised were being considered in the context of Section 3.2 of ST/SGB/2008/5 and assured him that his complaint was being taken seriously and that appropriate action would be taken in due course.

7. On 28 August 2015, the Officer-in-Charge of the Management Evaluation Unit (OiC and MEU, respectively) rejected Mr. Nadeau's management evaluation request as not receivable. The MEU noted that a failure by a manager or supervisor to fulfil his/her obligations under Section 3.2 of ST/SGB/2008/5 would not, in itself, constitute prohibited conduct. The MEU further noted that the Director had confirmed to Mr. Nadeau that the matters raised were being considered in the context of Section 3.2 of ST/SGB/2008/5 and that appropriate action would be taken in due course. The MEU concluded that there was thus no administrative decision not to take action on his complaint.

8. By e-mail dated 6 October 2015, the Director reiterated that Mr. Nadeau's complaint was being taken seriously, but he also noted that "in a large bureaucracy such as ours, resolving matters such [as yours] is by no means an easy and straight forward matter". On 8 and 16 October 2015, Mr. Nadeau met with the Director to discuss his case.

9. By e-mail of 16 October 2015, the Acting Head and Assistant Secretary-General of OIOS (ASG/OIOS) requested that he provide suggestions on additional actions to be taken to further improve his work environment and that he discuss these suggestions with his supervisors so that they could let him know of their recommendations.

10. By e-mail dated 2 November 2015 to the ASG/OIOS, Mr. Nadeau explained that his workplace issues were primarily caused by, or with the approval of, Mr. MD (name redacted) and proposed: a divisional retreat for all Investigations Division's staff; an external audit of all staffing actions with OIOS during the mandate of the former USG/OIOS; and the resumption of the monthly publication of the Investigations Division staffing table. According to Mr. Nadeau's own submissions, Mr. MD and he had not worked in the same place since 10 April 2014.

11. On 23 November 2015, Mr. Nadeau filed an application with the UNDT challenging the Secretary General's failure to act in accordance with Section 3.2 of ST/SGB/2008/5 with respect to his complaint of 18 February 2015. By Judgment No. UNDT/2018/052 on receivability dated 25 April 2018, Judge Ebrahim-Carstens held that the application was receivable. On 30 June 2019, Judge Ebrahim-Carstens' tenure with the Dispute Tribunal ended, and on 1 July 2019, the case was reassigned to Judge Adda.

12. On 22 November 2019, the UNDT issued Judgment No. UNDT/2019/168 on the merits.

13. The UNDT found that Mr. Nadeau's main issue was his relationship with Mr. MD, but that Mr. MD had no longer worked in the office since 9 April 2014. Upon the ASG/OIOS's request for specific measures that could be enacted to improve Mr. Nadeau's situation, Mr. Nadeau proposed a divisional retreat, an external audit, and the publication of the staffing table. The UNDT noted that it would therefore seem that Mr. Nadeau's situation with Mr. MD had actually been resolved in that they no longer worked together and that Mr. Nadeau's eventual temporary reassignment would appear to have been a very reasonable further solution to bring him out of an office environment in which he obviously continued to feel uncomfortable and which he even labelled as toxic on various occasions. Finally, the UNDT found that it would fall within the Administration's discretion whether to enact any of the three measures proposed by Mr. Nadeau as all of these measures concerned the general environment rather than his specific issues.

14. Nevertheless, with reference to Section 3.2 of ST/SGB/2008/5, the UNDT found that the Administration had failed to address Mr. Nadeau's complaint with the mandatory promptness. While the Director e-mailed him on 8 May, 21 August and 6 October 2015 promising him a response to his complaint, he only met with him on 8 and 16 October 2015. The UNDT found that the 8 October 2015 meeting, almost eight months after Mr. Nadeau had submitted his complaint, was the first meaningful and substantive response to his complaint. Subsequently, the Director e-mailed Mr. Nadeau on 27 November 2015. On 16 October 2015, the ASG/OIOS requested that Mr. Nadeau provide "specific suggestions" to further improving his work environment, which Mr. Nadeau provided on 2 November 2015. The UNDT noted that while the Secretary-General had submitted that discussions on his workplace concerns were "continuous", he had provided no evidence to substantiate his submission. The UNDT concluded that the Administration might have found it difficult to properly respond to Mr. Nadeau, particularly as his apparent main problem, namely his troublesome relationship with Mr. MD, was no longer an issue, but that it still had a duty to respond to him in a timely manner.

15. Turning to the issue of remedies, Mr. Nadeau submitted a written evaluation by "his treating psychiatrist" from 4 May 2017 through 8 January 2019 as evidence of the alleged harm that he suffered from the delayed response(s) to his complaint. The UNDT found that the written assessment was provided by a psychiatrist, who only started to treat Mr. Nadeau around two years after the Administration's delayed response to his complaint and as such, the assessment was not a contemporaneous evaluation of Mr. Nadeau's emotional and psychological

state of mind (i.e. based on hearsay) and had been made retrospectively. The UNDT further found that while the assessment was that Mr. Nadeau had suffered some psychological harm from his workplace environment, this was not specifically linked to the improper delay. The UNDT concluded that Mr. Nadeau had failed to substantiate the necessary causality between the irregularity and his alleged harm.

16. The UNDT granted the application, in part; found that the Administration's response to Mr. Nadeau's complaint was adequate but untimely; and rejected his request for compensation.

Submissions

Mr. Nadeau's Appeal

17. The UNDT erred in fact in relying on the 27 November 2015 e-mail from the Director to conclude that the Administration had adequately responded to the complaint when it had not done so. The 27 November 2015 e-mail is not relevant to the present case, as it refers to letters sent by him to the former USG/DM on 28 August 2015, regarding the MEU's non-receivability letter and is not related "to the conduct of any OIOS staff member, the working environment in OIOS or anything else for which the USG/OIOS was responsible". The e-mail cannot therefore be evidence that the Administration responded to the complaint.

18. The UNDT erred in relying on the 16 October 2015 e-mail from the ASG/OIOS. The UNDT found that, on 16 October 2015, the ASG/OIOS, responded to Mr. Nadeau's e-mails of 28 September and 5 October 2015 requesting his "specific suggestions to further improving his work environment" and that Mr. Nadeau replied on 2 November 2015. However, while the word "further" suggests that something had already been done, the Secretary-General provided no evidence that any action had been taken. On the contrary, the UNDT concluded that, while the Secretary-General had argued that discussions on Mr. Nadeau's workplace concerns were "continuous", he failed to provide any evidence as to when and how such alleged discussions took place. The only evidence to suggest that the Administration did in fact respond appears to be that the ASG/OIOS had asked Mr. Nadeau a question in the 16 October 2015 e-mail and there was no evidence that the ASG/OIOS even took any action on Mr. Nadeau's response of 2 November 2015. While recognising that the Secretary General could offer no proof of discussions to improve working conditions being "continuous", the UNDT nevertheless

concluded that the ASG/OIOS by simply asking for suggestions on what management steps might be taken was an element that contributed to a response that was “adequate” but untimely.

19. The UNDT exceeded its competence by offering a possible excuse for the Administration’s delay in responding to the complaint. The UNDT concluded that the Administration “might have found it difficult to properly respond to the Applicant, particularly as his apparent main problem, namely his troublesome relationship with Mr. MD, was no longer an issue”. “Might” does not constitute a finding of fact and given that the Administration’s failure to act on Mr. Nadeau’s complaint was the point at issue, the UNDT exceeded its jurisdiction by offering a possible excuse. The excuse was also offered for the benefit of the Secretary-General, who had failed to produce any evidence in support of this hypothesis, which must be indicative of bias. In any event, whether or not Mr. MD’s presence was “no longer an issue” is only partially relevant: the Appellant had also complained about the actions of his First Reporting Officer (FRO), who was not removed and who the Secretary-General was aware was later re-introduced as Mr. Nadeau’s FRO, further aggravating his medical problems.

20. The UNDT erred in law in finding that the Administration acted in a fair and impartial manner while also finding the response was untimely. The duty of managers and supervisors laid out in Section 3.2 of ST/SGB/2008/5 is to ensure that complaints of prohibited conduct are addressed promptly and in a fair and impartial manner. As such, managers and supervisors cannot have fulfilled their duty under this section if the action they took was not both (a) prompt and (b) fair and impartial. By finding that the Administration did not address Mr. Nadeau’s complaint promptly, the UNDT erred in law by finding that the Administration’s response was nevertheless “fair and impartial”.

21. The findings in Judgment on the merits contradict the findings in the Judgment on receivability in the same case. In the Judgment on the merits, the UNDT found that the Administration did respond, albeit not promptly, whereas in the Judgement on Receivability, the UNDT found that Mr. Nadeau had never received a response to this complaint, despite being explicitly promised one. The only additional evidence introduced prior to the Judgment on the merits was the e-mail from the Director on 27 November 2015, which did not refer to the question then before the UNDT. In deciding the case on the merits, therefore, the UNDT’s finding that the Administration’s response was “fair and impartial” is therefore based on just two pieces of evidence: the Director’s e-mail of 27 November 2015 which was not relevant to the

question before the UNDT; and the ASG/OIOS' e-mail of 16 October 2015, which was a question and which the Receivability Judgment had considered was not a response.

22. Mr. Nadeau requests that the Appeals Tribunal vacate Judgement No. UNDT/2019/168 and remand the case back to the UNDT for a fresh consideration of the facts to be considered, *de novo*, by a different judge.

The Secretary-General's Answer

23. The Secretary-General requests that the Appeals Tribunal uphold the Judgment and dismiss the appeal. The UNDT was correct in finding that the Administration had fulfilled its substantive duty under Section 3.2 of ST/SGB/2008/5. The UNDT correctly held that the Administration had responded to Mr. Nadeau's e-mails, making him aware that his complaint was under consideration, had engaged in a dialogue with him about his workplace environment, had met with him and had even asked for his input on how he considered his working environment could be improved. The UNDT considered that the Administration could have acted more promptly; however, the UNDT correctly concluded that the Administration had acted in a fair and impartial manner and that no compensation was warranted. The UNDT correctly found that it was within the Administration's discretion to decide not to investigate Mr. Nadeau's complaint, and to decide which actions were appropriate in the circumstances.

24. Mr. Nadeau has not demonstrated that findings in the Judgment on Receivability override conclusions in the Judgment. There is no merit in Mr. Nadeau's contention that the UNDT erred in finding that he had received a response to his complaint since the Judgment on Receivability found that Mr. Nadeau had received no response. A statement in the Judgment on Receivability cannot be considered to be a finding on the merits. As the Judgment on Receivability did not address the merits of the case, it cannot be used to show errors in the consideration of the merits of the Judgment.

25. Mr. Nadeau has not demonstrated that the UNDT's conclusion is based on evidence not relevant to the present case. Mr. Nadeau's claim that the UNDT erred when finding that the Administration's response was fair and impartial, based on just two pieces of evidence (the 27 November 2015 e-mail from the Director and the 16 October 2015 e-mail from the ASG/OIOS) is misleading. The UNDT conducted a comprehensive analysis of the case records and took into account a broader set of evidence, including other e-mail correspondence, the fact that the

Director had met with Mr. Nadeau in person on 8 and 16 October and the ASG/OIOS had invited Mr. Nadeau to provide suggestions to further improving his working environment. The UNDT correctly concluded that the Administration had acted in a fair and impartial manner in accordance with Section 3.2 of ST/SGB/2008/5 in addressing the complaint.

26. Mr. Nadeau failed to demonstrate that the UNDT erred by referring to the 27 November 2015 e-mail from the Director. Contrary to Mr. Nadeau's assertion, the 27 November 2015 e-mail from the Director is relevant evidence and was correctly taken into consideration by the UNDT. The e-mail stated that "I understand you received a letter from the MEU informing you that based on its review of the chronology of facts, your request for management evaluation was time-barred." This relates to the MEU decision relating to the Appellant's complaint of 18 February 2015. While Mr. Nadeau subsequently filed additional complaints about the Head of the MEU and appealed the MEU decision, the underlying issue before the UNDT was the Administration's response to Mr. Nadeau's 18 February 2015 complaint. The e-mail which could have been more precise stated that the former USG/DM had reviewed Mr. Nadeau's 18 February 2015 complaint and his subsequent complaints relating to how the MEU handled the complaint and considered that no further action was warranted.

27. Mr. Nadeau failed to demonstrate that the 16 October 2015 e-mail from the ASG/OIOS was not relevant. Mr. Nadeau's contention that the e-mail from the ASG/OIOS dated 16 October 2015 showed that no action had been undertaken in addressing his complaint and that the notion of "further improving" in the e-mail suggested that something had already been done when no action had been taken is not correct. The word "further" was used in the context that Mr. Nadeau was asked to provide suggestions of additional actions to be taken to further improve his work environment. In the circumstances of the message, the reasonable understanding is that the Administration wished to improve Mr. Nadeau's working environment, and to allow him to share additional thoughts on how the quality of his workplace environment could be improved. Nothing in this e-mail suggests that the Administration promised Mr. Nadeau to implement all his suggested measures.

28. Mr. Nadeau did not demonstrate that the UNDT exceeded its competence by offering the Administration an excuse when finding that the Administration might have found it difficult to properly respond to Mr. Nadeau, particularly as his main complaint, his relationship with one of the managers in the Investigations Division, was no longer an issue. Specifically, the UNDT found that the first meaningful and substantive response to Mr. Nadeau's

18 February 2015 complaint was his meeting on 8 October 2015 with the Director, almost eight months after he had submitted his complaint. Thus, the UNDT found that the Administration did not act promptly in addressing Mr. Nadeau's complaint, but the UNDT also found that there was no substantive issue for the Administration to address, since the issue with one of the managers in the Investigations Division at the root of Mr. Nadeau's workplace issues had been resolved. Nonetheless, the Administration had a duty to respond to the complaint promptly. The UNDT did not exceed its competence, since its conclusion was a reasonable interpretation of the evidence before it.

29. Mr. Nadeau has failed to demonstrate that the UNDT erred in law in finding that the Administration acted in a fair and impartial manner while also finding the response was untimely. Mr. Nadeau contradicts himself when he argues, on the one hand, that there are two distinct elements to the obligation set out in ST/SGB/2008/5, namely that the actions by the Administration must be both "fair and impartial" as well as "prompt"; and, on the other hand, that the UNDT erred in law by finding that the response to his complaint was fair and impartial when it had found that it was not prompt, thereby suggesting that they are not distinct elements.

Considerations

30. The main issue for consideration and determination in the present case is whether the UNDT exceeded its jurisdiction or competence or erred on a question of law or fact resulting in a manifestly unreasonable decision when it found that the Administration's response to Mr. Nadeau's complaint under Section 3.2 of ST/SGB/2008/5, although untimely, was adequate, and when it found that no compensation should be awarded to Mr. Nadeau.

31. Section 3 of ST/SGB/2008/5 - Duties of staff members and specific duties of managers, supervisors and heads of department/office/mission - applicable to this case, states, in relevant part, *in verbis*:

3.2 Managers and supervisors have the duty to take all appropriate measures to promote a harmonious work environment, free of intimidation, hostility, offence and any form of prohibited conduct. They must act as role models by upholding the highest standards of conduct. Managers and supervisors have the obligation to ensure that complaints of prohibited conduct are promptly addressed in a fair and impartial manner. Failure on the part of managers and supervisors to fulfil their obligations under the present bulletin may be considered a breach of duty, which, if established,

shall be reflected in their annual performance appraisal, and they will be subject to administrative or disciplinary action, as appropriate.

32. In his appeal, Mr. Nadeau argues that the UNDT erred when it found that the Administration's response to his complaint was fair and impartial. He claims that the 27 November 2015 e-mail mentioned in the UNDT Judgment did not address his complaint, as it relates to a later extraneous matter, rather than the one treated in the present case, which concerns the "conduct of any staff member, the working environment in OIOS or anything else for which the USG/OIOS was responsible".

33. The Appeals Tribunal first finds that the mention of the e-mail dated 27 November 2015 at paragraph 33 of the UNDT Judgment was not a determining factor in the finding that the handling of Mr. Nadeau's complaint was adequate. Rather, this e-mail was just one element in a sequence of actions implemented by the Administration when dealing with Mr. Nadeau's complaint. In this regard, the UNDT did not even refer to the content of the aforementioned e-mail as a possible reason for its conclusion that the handling was adequate, and it is therefore not directly relevant.

34. Furthermore, the UNDT did not base its finding on the e-mails mentioned by Mr. Nadeau in his appeal, but rather on two main elements: i) Mr. Nadeau's temporary reassignment to another office where he could be away from the discomfort of working with Mr. MD, thereby dissipating the uncontroverted main source of dispute¹; and ii) the meeting held on 8 October 2015 with the Director when they could discuss the situation in light of Mr. Nadeau's formal complaint.²

35. Mr. Nadeau further contends that there was no action taken by the Administration in response to his complaint, nor was there any reaction to his 2 November 2015 e-mail whereby, at the request of the Administration, he had given suggestions regarding management measures to be taken in order to improve the work environment.

36. On this point, the Appeals Tribunal notes that by the time Mr. Nadeau filed his application with the UNDT on 23 November 2015, and even when he filed his initial complaint on 18 February 2015, the main source of grievance had already been addressed, in that Mr. Nadeau had not worked with Mr. MD since 10 April 2014. It is true that, in his

¹ Impugned Judgment, para. 31.

² Impugned Judgment, para. 34.

e-mail dated 2 November 2015, Mr. Nadeau proposed some additional measures which he believed would improve the work environment, namely, a “divisional retreat”, an external audit and the publication of the “staffing table”.³ These measures were, however, external and complementary to the core matter of an alleged acrimonious relationship with Mr. MD, not to mention that they concerned the general work environment, not specifically Mr. Nadeau’s particular situation.

37. Moreover, although provided at the Administration’s request with the aforementioned aim of offering some relief to Mr. Nadeau’s discomfort in his work environment, these suggestions in the previous paragraph could not have been expected to be automatically implemented, as it fell within the Administration’s discretionary powers to assess whether they were adequate and necessary in the circumstances.⁴ Incidentally, there is no evidence that, if the main cause of discomfort had been removed by Mr. Nadeau’s reassignment to another office, any implementation of his later suggestions would have had a direct impact on his work environment.

38. Mr. Nadeau further maintains that his FRO was also a source of his medical problems. However, this assertion was not supported by any evidence.

39. The UNDT was thus correct in its finding that i) it would therefore seem that Mr. Nadeau’s situation with Mr. MD had actually been resolved since they no longer worked together; ii) Mr. Nadeau’s eventual temporary reassignment would appear to have been a very reasonable further solution to bring him out of an office environment in which he obviously continued to feel uncomfortable and which he even labelled as toxic on various occasions; and iii) it would fall within the Administration’s discretion whether to enact any of the three measures proposed by Mr. Nadeau, particularly because they concerned the general environment of Mr. Nadeau’s workplace rather than his specific issues.⁵ The UNDT was also correct in its admonition that the Administration could have acted more promptly, although this had no consequence in terms of compensation to Mr. Nadeau in light of the lack of evidence of any harm to Mr. Nadeau deriving from such a failure.

³ Impugned Judgment, paras. 15, 16 and 30.

⁴ Likewise, as stated in Section 5 (Corrective Measures), Subsection 14 (Formal Procedures) of ST/SGB/2008/5, the responsible official, upon receipt of a formal complaint, will promptly review the complaint to assess whether it appears to have been made in good faith and whether there are sufficient grounds to warrant a formal fact-finding investigation, in which case a panel will be appointed to investigate the allegation of prohibited conduct.

⁵ Impugned Judgment, para. 31.

40. Notwithstanding the above, the Appeals Tribunal finds that the UNDT erred in its ultimate finding that the Administration's response to Mr. Nadeau's complaint was adequate.⁶ While the responsible official must act with conscientiousness and reasonable discretion, there is enough evidence that this discretion was not exercised with all the required reasonableness in the present case. The UNDT itself acknowledged that "[i]f the Administration simply intended to reject the Applicant's requests, this should have been made clear to the Applicant at its earliest convenience".⁷ It could obviously be argued that the Administration had opted to make an implied (negative) decision to discard Mr. Nadeau's suggestions. However, the test of a general implied administrative decision is not applicable here. This is because the content of the previous exchange of communication between Mr. Nadeau and the Director demonstrates that the Director had explicitly and specifically promised some sort of reaction to Mr. Nadeau's particular situation, after the delivery of his suggestions.⁸

41. Nonetheless, this specific reaction never occurred. The UNDT's last finding of adequacy is thus not consistent with its own previous statement, nor does it go in harmony with the good practices and the high standards of the Organization to fulfill its own voluntary commitments. In the present case, it is not reasonable to consider that the mere *inaction* on the part of the Administration, particularly following Mr. Nadeau's suggestions, given at the Administration's request, was "appropriate action in due course", as it would have been anticipated, even if, as discussed above, the Administration might well have had good reason to reject them. Whereas ordinarily the Organization does not have a duty to make an explicit decision regarding every request it receives, the minimum standards of transparency determine it to comply with its own commitments once these are voluntarily given. The appeal succeeds in that the Administration's response to Mr. Nadeau's complaint under Section 3.2 of ST/SGB/2008/5 was, apart from untimely, inadequate.

⁶ Impugned Judgment, para. 41.a.

⁷ Impugned Judgment, para. 34.

⁸ In this exchange of communications, Mr. Nadeau had received, *inter alia*, the confirmation to rest assured that his complaint was being taken seriously and that appropriate action would be taken in due course, as well as reiteration that his complaint was being taken seriously. Moreover, the request to provide suggestions came after the ASG/OIOS' statement that Mr. Nadeau's previous note had not highlighted any concrete measures that they could have acted on at that time. Importantly, this communication took place even after the removal of the main cause of Mr. Nadeau's dissatisfaction, namely the problematic relationship with Mr. MD. See impugned Judgment, paras. 11, 13 and 15. See also Judgment on Receivability, para. 35.

42. Despite this error in the UNDT Judgment, Mr. Nadeau did not appeal against the UNDT finding that there was no evidence to support his request for compensation. He simply requested that this case be remanded to be considered *de novo* by a different judge, without pointing out any justification for such a remand. Would this be because he considers that some sort of additional evidence should be provided at this stage? Mr. Nadeau failed to provide any reason for his request, as would have been required by Article 2(4)(b) of the Appeals Tribunal Statute. Moreover, according to Article 2(5) of the Appeals Tribunal Statute, any request to provide additional evidence which would be known to the parties and should have been presented at the UNDT level would be barred.

43. In light of the foregoing, the Appeals Tribunal considers that, while there is no reason to remand, the UNDT's final order shall be partially modified in that the Administration's response to Mr. Nadeau's complaint under Section 3.2 of ST/SGB/2008/5 was, in addition to untimely, also inadequate. The UNDT's rejection of Mr. Nadeau's request for compensation is affirmed.

Judgment

44. The appeal is partially granted and Judgment No. UNDT/2019/168 is partially modified in that the Administration's response to Mr. Nadeau's complaint under Section 3.2 of ST/SGB/2008/5 was not only untimely but also inadequate. The UNDT's rejection of Mr. Nadeau's request for compensation is affirmed.

Original and Authoritative Version: English

Dated this 30th day of October 2020.

(Signed)

Judge Halfeld, Presiding
Juiz de Fora, Brazil

(Signed)

Judge Knierim
Hamburg, Germany

(Signed)

Judge Neven
Brussels, Belgium

Entered in the Register on this 8th day of January 2021 in New York, United States.

(Signed)

Weicheng Lin, Registrar