



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2020/050  
Judgment No.: UNDT/2021/039  
Date: 21 April 2021  
Original: English

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**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** Geneva

**Registrar:** René M. Vargas M.

CARDINES

v.

SECRETARY-GENERAL  
OF THE WORLD METEOROLOGICAL  
ORGANIZATION

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**JUDGMENT**

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**Counsel for Applicant:**

Christopher Bollen

**Counsel for Respondent:**

Daniel Trup, WMO

## **Introduction**

1. The Applicant, a former English Translator/Editor at the P-4 level with the World Meteorological Organization (“WMO”) in Geneva, contests the Administration’s decision not to renew her fixed-term appointment beyond 31 October 2020 and the decision not to grant her a permanent appointment.
2. For the reasons stated below, the application is rejected.

## **Facts**

3. In 2013, the Applicant was appointed as a P-4 English Translator/Editor in the Language, Conference and Publishing Services Department (“LCP”), WMO.
4. In June 2019, the governing body of WMO, the World Meteorological Congress (“Congress”), passed a series of resolutions directing the WMO Secretary-General to implement reforms both to the structure of the Secretariat and the manner in which the Organization delivered services to its Member States. In particular, Congress directed the WMO Secretary-General “to identify both efficiency gains especially in administrative work and processes and savings in the regular budget corresponding to at least CHF 5.3 million in 2020-2023”.
5. By Service Note No. 22/2019, issued on 28 June 2019, all staff members were notified of the WMO Secretary-General’s decision to restructure the WMO Secretariat.
6. On 18 July 2019, the Director of LCP held a meeting to discuss the outcome of the 18<sup>th</sup> Congress meeting and its implications for LCP. The Director of LCP noted that Members had requested two per cent savings in administrative work and processes. The Director of LCP also reported that the new Secretariat structure would start functioning in January 2020 and LCP would become part of the Governance Services Department (“GSD”). The Director of LCP further noted that LCP’s structure and the profile of its positions might change and reminded staff members to send their ideas and suggestions on the reform to the relevant email address. A question was

raised regarding the possibility of the abolition of posts as a consequence of the reform and the Director of LCP responded that she had no information on that issue.

7. On 4 October 2019, the WMO Secretary-General presented his plan for a reform of the WMO Secretariat at a town hall meeting.

8. By Service Note No. 26/2019 issued on 16 October 2019, the WMO Secretary-General announced that the Joint Consultative Committee (“JCC”) would be designated as the forum for collective consultations on the restructuring proposals, and that JCC would convene meetings to start their deliberations based on the proposals and any suggestions from staff members. It further provided that queries and/or comments could be submitted in several ways, and would be collected and shared with the JCC members. It further provided that the Executive Management would hold meetings with the staff of each department, providing an opportunity for staff to comment on the proposed structures. It further emphasized that communication with Staff Committee representatives would be key to achieving a successful dialogue.

9. By memorandum dated 4 November 2019, the Director of LCP directed the Chief of the Documentation and Publications Management (“DPM”), under which the Applicant’s post was located, to prepare a proposal for the new structure according to the WMO Secretary-General’s instruction to review and streamline administrative services, including the language services. In particular, the Director of LCP instructed as follows:

As you know, we are set to continue investing in new technologies ([Computer Assisted Translation (“CAT”)] tools, machine translation and similar) that will enable us to produce more with less. Language groups where there are even up to four translators/editors need to be reduced by half and rely on outsourcing. As English is the lead language and most of our publications are technical, the team should be able to deal with scientific subjects. Therefore, the profile of those professional posts should be adapted to reflect the scientific nature of our Organization and attract younger professionals who are at ease with new technologies.

[The WMO] Secretary-General has pointed out that [the Cabinet Office of the Secretary-General (“CSG”)] has the P4 position of editor which is considered to be the “senior” editor in the Organization, and therefore English language positions in your services should be below this level.

I expect that your proposal for the new structure will reflect the directions of the [WMO] Secretary-General explained above and other discussions that we had on this subject. Please proceed within the next couple of weeks with the proposals regarding the reorganization of Language services to reflect the instructions of [WMO] SG.

10. On 15 November 2019, the Director of LCP made a presentation at a staff consultation forum. The Director explained, among other things, that the realignment of functions throughout the Secretariat would have an impact on the numbers and levels of staff and it was expected to deliver better services at lower expense.

11. On 29 November 2019, the WMO Secretary-General presented updates on a plan for a reform of the WMO Secretariat for 2020. In the presentation, it was noted that several consultation meetings were held with each department in November 2019, during which initial department structures were presented and questions were answered, and explanations and clarifications were provided. Under the new structure, the Director of LCP would serve as the Director of GSD, who provided updates on the new structure and consultation. The Director presented that several discussions were held.

12. On the same day, the Applicant received an email from the Chief of the Human Resources Division (“HRD”), informing her that her post may be affected by the restructuring:

I am writing with reference to the ongoing restructuring of the WMO Secretariat and to inform you that your post has been identified as part of an occupational group where future staffing needs are currently still under review. This review may result in a change of the number, levels, and functions of posts which may affect your employment or conditions of service.

Please note that this letter is advance information regarding the potential impact of the restructuring. We will in due course inform you of the nature and the timeline of the implementation of the proposed changes, solicit your comments, and provide the options open to you going forward.

13. By memorandum dated 25 February 2020, the Director of GSD submitted a proposal for a new structure and staffing, which was approved by the WMO Secretary-General on 26 February 2020. The Director noted that the proposal would generate savings of CHF3.5 million. The proposal also included new organizational structures of GSD. According to the proposed structure for the Multilingual Services Section, there would be 13 linguists in total and the abolition of the Applicant's post was proposed with the following explanation (emphasis in original):

**The current team of 15 linguists will be reduced to 13 P staff.**

*English language stream* requires heavier staffing than the others for the following reasons:

- Our Members complain often about the poor quality of documents
- Our translators (both in-house and external) complain also about the low quality of originals, which makes them lose more time than expected in order to decipher the meaning or consult the authors
- Machine translation - the pre-requisite for it becoming an efficient and cost-saving tool is that the English original is clearly written

Current composition of 1 P4, 2 P3 and 1 P2 should be changed to 3 P3 and 1 P2, since WMO has one P4 editor in [Communication and Public Affairs ("CPA") in the Cabinet of the Secretary-General]. **ACTION NEEDED: ABOLISHMENT OF THE CURRENT P4 IN GS, advertisement of 1 P2 and 2 P3 posts.**

14. By memorandum dated 18 March 2020, the Applicant was notified by the Chief of HRD that her post would be abolished effective 31 October 2020 at the end of her fixed-term appointment and, consequently, that her appointment would not be renewed thereafter.

15. On 19 March 2020, the Applicant asked the Chief of HRD to send her an explanation as to how and why her post was affected and asked for a new organigramme of her office.

16. On 20 March 2020, the following day, the Chief of HRD responded that “[m]anagement made the decision to abolish the post after a thorough assessment of WMO needs, in-house capacities, and possible alternative options to provide the services”. As to the new organigramme, the Chief of HRD responded that he did not have one.

17. By email of 8 April 2020, the Applicant questioned the decision to abolish her post and not to renew her appointment and requested additional documents and information regarding the restructuring.

18. On 9 April 2020, the Chief of HRD provided additional explanations regarding the decision as follows:

The decision to abolish posts was part of a reorganisation of WMO directed by Congress to firstly adduce savings in the regular budget and secondly to align the Secretariat with the approved strategic plan.

With regard to the specific rationale behind the abolition of your post, this was made following a review of the needs for a P-4 English translator/editor within WMO. As previously indicated there is capacity at the same level for similar work in another office within WMO. There is also increasing potential for outsourcing and automation, which WMO is currently exploring. As a result, it was felt that there was no necessity to retain the P4 post you encumber.

WMO retains the power to restructure its departments and abolish posts if it believes it is in the interest of the organisation. Consequently, within the revised structure, WMO determined that the needs of the office and the requirements of the role demand that only two P-3 posts are necessary within the existing office.

Accordingly, you were informed of the decision not to renew your appointment as a result of the abolition of your post. I would remind you that a P-3 post will be advertised in your unit and I would encourage you to apply for the new position.

19. On 23 April 2020, the Applicant responded to the email of 9 April 2020. She wrote that although there is another in-house P-4 English editor, she is the only in-house staff member with the necessary experience and training to do technical revision and editing in English and that the restructuring would decrease efficiency.

20. During a phone conversation on 28 April 2020, the Applicant was informed by her supervisor that in addition to establishing one new P-3 post, a P-2 scientific editor post would be created.

21. By memorandum dated 29 April 2020, the Applicant requested that she be granted a permanent appointment retroactive from 1 March 2017 or 1 March 2018.

22. On 8 May 2020, the Applicant submitted a request for administrative review of the decision of 18 March 2020 to abolish her post and not to renew her fixed-term appointment.

23. By email dated 12 May 2020, the Administration advised the Applicant that her request for a permanent appointment was refused since consideration of granting permanent appointment had been suspended since January 2019.

24. On 2 June 2020, the Applicant submitted a request for administrative review of the decision of 12 May 2020 not to grant her a permanent appointment.

25. On 14 October 2020, the Applicant filed the present application.

26. On 27 October 2020, the Respondent filed his reply.

27. On 15 February 2021, pursuant to Order No. 31 (GVA/2021), the Respondent made an additional submission.

28. On 9 March 2021, the Applicant submitted a response to the Respondent's submission of 15 February 2021.

### **Consideration**

#### *Scope of the review*

29. In her application, the Applicant submits that she contests the following decisions: a) refusal to grant permanent appointment, b) refusal to renew fixed-term contract, c) abolition of post, and d) termination of contract.

30. In response, the Respondent submits that the application concerning the refusal to grant permanent appointment is not receivable since the Applicant had been notified of this decision in January 2019 and she had not requested a timely review of such decision.

31. The record shows that in January 2019, the Administration decided to postpone the consideration of permanent appointment awards to several staff members including the Applicant and notified the affected staff members accordingly.

32. On 29 April 2020, the Applicant requested that she be granted a permanent appointment and on 12 May 2020, the Administration wrote to her that her request had been refused since consideration of the granting of permanent appointments had been suspended since January 2019.

33. As the Appeals Tribunal has held, the reiteration of a challenge to an administrative decision does not reset the clock with respect to the statutory timelines; rather, the time starts to run from the date the original decision was made (*Sethia* 2010-UNAT-079; *Odio-Benito* 2012-UNAT-196; *Staedtler* 2015-UNAT-546, *Kazazi* 2015-UNAT-557).

34. In this case, the original decision not to grant the Applicant a permanent appointment was notified to her in January 2019. The communications between the Applicant and the Administration in this regard in April-May 2020 were merely reiterations of a challenge and of the original decision. These communications did not reset the clock with respect to statutory timelines.

35. The Applicant failed to challenge the decision made in January 2019 within the statutory time limit and, therefore, the Tribunal rejects the application with respect to the Administration's refusal to grant a permanent appointment as not receivable *ratione materiae*.

36. Regarding the termination of contract, the Respondent submits that the Applicant's appointment was not terminated but expired on the expiration date.

37. WMO staff regulation 9.2(b) distinguishes separation as a result of termination from separation as a result of the non-renewal of an appointment as it provides that "the Secretary-General may terminate the appointment of a staff with a fixed-term appointment prior to the expiration date". As the Appeals Tribunal held in *Nouinou* 2019-UNAT-902, "the separation as a result of termination initiated by the Secretary-General in cases of abolition of posts or reduction of staff ... differs substantially from the separation as a result of expiration of a fixed-term appointment, which takes place automatically, without prior notice, on the expiration date specified in the letter of appointment".

38. The record clearly shows that the Administration's decision was not to renew the Applicant's appointment on its expiration date. Thus, there was no administrative decision to terminate the Applicant's fixed-term appointment prior to its expiration.

39. In light of the above, the overriding issue in this case becomes whether the decision not to renew the Applicant's fixed-term appointment due to the abolition of her post was lawful.

*Non-renewal of the Applicant's fixed-term appointment due to abolition of post*

40. A fixed-term appointment does not carry any expectancy of renewal and expires automatically, without prior notice, on the expiration date. The Administration is, nevertheless, required to provide a reason for such a non-renewal upon the affected staff member's request or the Tribunal's order, and, as the Appeals Tribunal held in *Islam* 2011-UNAT-115, "when a justification is given by the Administration for the exercise of its discretion it must be supported by the facts" (see *Islam* 2011-UNAT-115 (paras. 29-32), *Obdeijn* 2012-UNAT-201 (paras. 33-39), *Pirnea* 2013-UNAT-311 (paras. 33-34)).

41. It is also well settled jurisprudence that an international organization necessarily has power to restructure some or all of its departments or units, including through the abolition of posts. The Tribunal will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. However, like with any other administrative decision, the Administration has the duty to act fairly, justly and transparently in dealing with staff members (see *Hersh* 2014-UNAT-433, *Bali* 2014-UNAT-450, *Matadi et al.* 2015-UNAT-592). As the Appeals Tribunal stated in *Sanwidi* 2010-UNAT-084, at para. 40, when judging the validity of the exercise of discretionary authority,

the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The Tribunal can consider whether relevant matters have been ignored and irrelevant matters considered, and also examine whether the decision is absurd or perverse. But it is not the role of the Dispute Tribunal to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him. Nor is it the role of the Tribunal to substitute its own decision for that of the Secretary-General.

42. In light of the above, the Tribunal will consider the Applicant's following arguments:

- a. Since her P-4 post was replaced by a new P-3 post, her post was not abolished but reclassified. However, the Administration did not follow its own reclassification process;
- b. The decision to abolish the Applicant's post was arbitrary and not supported by the facts as it did not achieve any cost savings. Further, the abolition of her post would lead to a loss of coherence, increase in workflow complexity, and lower quality output;
- c. In violation of the Administration's promises and duties, the Applicant was not meaningfully consulted in making a decision to abolish her post; and
- d. The Administration violated specific provisions of the Standing Instructions relating to reorganization. Specifically, the Administration failed to conduct "strategic analysis, to ensure that any proposed new structure will meet future operational needs" as required by para. 4.46.5. Also, the Administration failed to perform "further analysis to identify any discrepancies between the posts required for the new structure and the staff members in the current structure" as required by para. 4.46.9. The Administration further violated its obligations by failing to make efforts to reassign her to an available position in the new structure as required under para. 4.46.13.

Was the Applicant's post abolished or reclassified?

43. The Tribunal will first address the Applicant's argument that her post was not abolished but reclassified because her post was replaced by a new P-3 post and, yet, the Administration failed to follow its own reclassification process.

44. The Respondent submits that the Applicant's post was abolished and a new P-2/P-3 post (Scientific Editor) was created since WMO needed a more specialized scientific editor. Under para. 4.13.9 of the Standing Instructions, a reclassification process can occur when there has been a change in duties and responsibilities, but in

this case, the staff changes went beyond a mere redefinition of duties and responsibilities but entailed significant and far-reaching restructuring encompassing various employees and posts. Further, the Respondent argues that under well-established jurisprudence, the Administration has the “power to restructure some or all of its departments or units, including the abolition of posts, the creation of new posts and the redeployment of staff”.

45. The Tribunal is persuaded by the Respondent’s submission on this issue. The Administration has discretion to choose which way to restructure its departments or units, and here the Administration chose to abolish the Applicant’s post, not to reclassify her post. The Applicant does not present any argument or evidence that the Administration should reclassify the post when a new post is created at the same time an old post is abolished.

46. Accordingly, the Tribunal finds that this argument is without merit.

#### Reasons for the abolition of post

47. The Tribunal notes that the Administration notified the Applicant that her post was abolished because “there is capacity at the same level for similar work in another office within WMO. There is also increasing potential for outsourcing and automation, which WMO is currently exploring”. The case record shows that there was a P-4 English editor in another unit, and it was decided that there was no need for an additional P-4 English editor post, which was the Applicant’s post. In addition, the case record shows that the Administration decided to decrease staff posts for language services in light of the continued investments in new technologies (e.g. CAT tools, machine translation and similar technologies) and outsourcing.

48. The Applicant argues that the proffered reasons for the abolition of her post are not supported by the facts and thus the decision was arbitrary. Specifically, the Applicant argues that when the contested decision was made, only one P-4 and one P-3 posts were filled and, therefore, the filling of three P-3 posts and one P-2 post after the

restructuring would not achieve any cost saving. From this the Applicant concludes that cost reduction was not the true reason for the abolition of her post.

49. Further, the Applicant argues that as the only English editor who could perform the revision in the Organization, her skills were needed in the new structure and dispersing the functions of her post to several staff in and outside her unit and to external contractors would lead to a loss of coherence, increase in workflow complexity, and lower quality output.

50. The Respondent replies that the abolition of the Applicant's post was a result of a genuine restructuring process that achieved overall cost savings by replacing the Applicant's post with a new P-3 technical editor.

51. Based on the case record and the Applicant's submission, the Tribunal understands that prior to the restructuring, only one P-4 post and one P-3 post were filled and one P-3 post and one P-2 post remained unfilled. After the restructuring, the Administration decided to fill all the posts (i.e., three P-3 posts and one P-2 post) and thus to advertise two P-3 posts and one P-2 post. Therefore, the Applicant argues that the contested decision did not result in cost savings.

52. However, even if the established posts remained unfilled, their related costs are still part of the budget. Just because the Administration decided to fill them after the restructuring does not mean that the restructuring in this case, i.e., the abolition of the Applicant's post and the creation of a P-3 post, did not generate cost savings. Therefore, this argument is rejected.

53. Regarding the Applicant's claim that her post was needed under the new structure and that the abolition of her post would lead to a loss of coherence, increase in workflow complexity, and lower quality output, the Tribunal observes that the Tribunal's role is to decide whether the contested decision is legal, rational, procedurally correct, and proportionate, not whether the Organization's choice was correct among the various available courses of action (*Sanwidi* 2010-UNAT-084,

para. 40). Even if it were to be found unwise to abolish the Applicant's post and that the contested decision would lead to lower productivity, these are not valid grounds to interfere with the Organization's decision.

54. Therefore, the Applicant arguments on this issue are rejected.

#### Failure to consult

55. Para. 4.46 of the Standing Instructions provides the following guidelines concerning the reorganization in its relevant part:

4.46.2 In that context, the management of reorganizations will follow the high level principles described below:

- (a) [...] The structure below the level of Directors of Departments is approved by the Secretary-General following the recommendation of the respective Directors of the Departments and the endorsement of the responsible Executive Manager;
- (b) The number and category of staff in each Department ... is based on the resourcing needs which are coordinated and established by Directors of Departments with the Human Resources Division (HRD) following the standard process (see paragraph 4.1.10);

...

4.46.5 A reorganization is a joint exercise conducted by line management in conjunction from HRD. Where there is a need to reorganize, careful planning will be undertaken by ... the Director of the Department concerned, and the approach is coordinated with and supported by HRD.

4.46.6 Any proposed reorganization is decided upon by the Secretary-General.

...

4.46.10 Early open communication to staff affected by a reorganization is recognized as highly important. HRD shall advise on the format and style of communication. Staff may have access to support from a representative of the Staff Committee and or the Staff Counsellor upon request. Communication will normally include a timeline for the implementation of the approved reorganization.

56. The record shows that the restructuring of GSD, under which the Applicant's post was located, was proposed by its Director and approved by the WMO Secretary-General, as required under the Standing Instructions. While sec. 4.46.10 provides that "[e]arly open communication to staff affected by a reorganization is recognized as highly important", it does not require any mandatory consultation process with an individual staff member.

57. However, the Applicant submits that during the WMO Secretary-General's several presentations throughout 2019 and through the Service Notes published during the relevant time period, the Administration promised that the reorganization process would be open and transparent and staff would be consulted during the process. The Applicant further refers to the Administration's email communication to her, dated 29 November 2019, in which the Administration promised that it would "in due course inform [her] of the nature and the timeline of the implementation of the proposed changes, solicit [her] comments, and provide the options open to [her] going forward".

58. The Applicant argues that in violation of the Administration's promises and duties, she was never meaningfully consulted or invited to engage in any discussions and that, despite its promise on 29 November 2019, the Administration did not inform her of the nature and the timeline of the implementation of the proposed changes, did not solicit her comments, and did not provide the options open to her going forward.

59. The Respondent responds that he met his obligations pursuant to para. 4.46 of the Standing Instructions on Reorganisation and as the Appeals Tribunal held in *Leboeuf et al.* 2015-UNAT-568, consultations are not negotiations and it is not

necessary for the Administration to secure the consent or agreement of the consulted parties.

60. The Tribunal observes that despite the Administration's specific promises made in the email of 29 November 2019, the Administration did not follow through and the next communication the Applicant received following the email of 29 November 2019 was the March 2020 notification of the abolition of her post as well as the non-renewal.

61. While it is unfortunate that the Administration failed to keep its specific promises made in the email of 29 November 2019, the Appeals Tribunal consistently held that "only substantial procedural irregularities can render an administrative decision unlawful" (*Thiombiano* 2020-UNAT-978, para. 34). Even if the Administration's failure to keep its promises made in the email of 29 November 2019 is considered a procedural violation, the Tribunal does not consider it a substantial procedural irregularity rendering an administrative decision unlawful, considering several consultation sessions held during the reorganization process, the consultation mechanisms provided to staff members, and the lack of any mandatory individual consultation requirement in the Standing Instructions. Also, as the Respondent points out, consultations are not negotiations and the Administration does not need to secure the consent or agreement of the consulted parties.

62. Therefore, the Applicant's arguments in this regard are rejected.

#### Violation of Standing Instructions provisions relating to reorganization

63. Finally, the Applicant argues that the Administration violated several provisions of the Standing Instructions relating to reorganization. Specifically, the Applicant argues that the Administration failed to conduct "strategic analysis, to ensure that any proposed new structure will meet future operational needs" as required by para. 4.46.5. Also, the Administration failed to perform "further analysis to identify any discrepancies between the posts required for the new structure and the staff members in the current structure" as required by para. 4.46.9. The Administration further

violated its obligations by failing to make efforts to reassign her to an available position in the new structure as required under para. 4.46.13.

64. Para. 4.46.5 provides that “HRD, in collaboration with relevant management, will recommend an appropriate process, tailored to the complexity of the proposed reorganization, which may involve: definition of the drivers for change, required posts and associated job description analysis, and strategic analysis, to ensure that any proposed new structure will meet future operational needs. In all cases, an assessment and reconciliation of budgetary factors will also be required”.

65. The Applicant argues that the Administration violated its own rules as it did not perform a strategic analysis to ensure that the new structure would meet future operational needs. However, 4.46.5 does not require any particular analysis for a reorganization. It provides that HRD will recommend a tailored, appropriate process for the reorganization which may include various methods including strategic analysis. The only requirement for the reorganization process according to this provision is “assessment and reconciliation of budgetary factors”. Further, while the Applicant may disagree with the conclusion of the Administration’s analysis, the record shows that the Administration conducted an analysis as to the needs of language services and concluded that a new structure would meet its operational needs for the language services.

66. Section 4.46 (Reorganization) of WMO’s Standing Instructions provides as follows in its relevant part (emphasis in the original):

**4.46.7 Staff resources associated with a reorganization**

...

4.46.9 Based on an approved reorganization plan, HRD in collaboration with line management will conduct further analysis to identify any discrepancies between the posts required for the new structure and the staff members in the current structure. There will be an examination of whether current staff members have the necessary

expertise, knowledge, skills and abilities to be successful in the future structure. It will include analysis of individual staff profiles (for example, qualifications, CVs, PARs) and consideration of the different measures that could be used to address a surplus of staff resources or other identified gaps, for example a need for training courses, on the job training and so on.

...

#### **4.46.11 Surplus of staff as a result of reorganization**

...

4.46.13 Where a surplus of staff is identified as a result of an approved reorganization, reasonable efforts will be made by the Organization to avoid termination of contracts (see Staff Rule 192.1 and 193.1 and paragraph 4.6.4 of the Standing Instructions), and in particular for those holding permanent appointments (noting the applicable retention criteria in Staff Rule 192.1 (b) in case of last resort).

67. Paragraph 4.46.9 requires the Administration to conduct “further analysis to identify any discrepancies between the posts required for the new structure and the staff members in the current structure”. This is intended to “address a surplus of staff resources or other identified gaps, for example a need for training courses, on the job training and so on”.

68. Issues regarding a surplus of staff is specifically addressed in para. 4.46.13. It provides that “where a surplus of staff is identified as a result of an approved reorganization, reasonable efforts will be made by the Organization to avoid termination of contracts”.

69. In this case, as already discussed, the Applicant’s contract was not terminated but in effect up until its expiration. Therefore, para. 4.46.13, which requires the Organization to make reasonable efforts “to avoid termination of contracts” is not applicable to the Applicant’s case.

70. Further, para. 4.46.7 should be read in conjunction with para. 4.46.13. The analysis to “identify any discrepancies between the posts required for the new structure and the staff members in the current structure” is required to “address a surplus of staff resources or other identified gaps, for example a need for training courses, on the job training and so on”. Since the Organization’s obligations to make reasonable efforts are required only to avoid termination, the Tribunal concludes that the analysis required in para. 4.46.7 does not apply to the Applicant’s case whose contract was set to expire due to abolition of her post.

71. Accordingly, the Applicant’s arguments in the issue at hand are also rejected.

### **Conclusion**

72. In light of the foregoing, the application is rejected.

*(Signed)*

Judge Alexander W. Hunter, Jr.

Dated this 21<sup>st</sup> day of April 2021

Entered in the Register on this 21<sup>st</sup> day of April 2021

*(Signed)*

René M. Vargas M., Registrar, Geneva