

R.

v.

South Centre

135th Session

Judgment No. 4588

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms S. C. P. R. R. against the South Centre on 26 February 2020 and corrected on 16 April, the Centre's reply of 12 October 2020, corrected on 30 October, the complainant's rejoinder of 27 January 2021, corrected on 2 February, and the Centre's surrejoinder dated 4 May 2021;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions;

Considering that the facts of the case may be summed up as follows:

The complainant challenges the non-renewal of her fixed-term appointment.

The complainant was appointed by the South Centre in May 2009 to work as a Spanish translator under a short-term contract, which was extended several times and converted into a fixed-term contract in 2011, renewed annually until 2018.

On 28 September 2018 the Administration notified all staff members that, pending the annual budget approval for 2019 by the Centre's Board and the respective expenditure authorization, their fixed-term appointments, which were scheduled to end on 31 December 2018, would be exceptionally extended for one month, that is to say until 31 January 2019. On 11 October 2018 the Board held its 41st meeting.

Upon deliberation based on the cost evaluation made by the Administration, it agreed to endorse the Executive Director's proposal to terminate the in-house translation service and to outsource such service and delegated to the Executive Director the authority to implement the proposal.

On 26 October 2018 the complainant was informed that, in order to reduce the current costs of translations for the Centre whilst increasing the translated output, as necessary, by way of outsourcing, the Executive Director had decided that, as per the consideration given by the Board at its 41st meeting to measures reducing such costs, her contract would not be renewed or extended beyond 31 January 2019.

In November 2018 the complainant submitted an intent to appeal against the decision of 26 October and the decision arising from a meeting she held with the Executive Director on 8 November in which she was informed that the non-renewal decision was final. In March 2019 she lodged an internal appeal requesting, *inter alia*, the setting aside of the non-renewal decision, her reinstatement (whenever possible), the granting of termination indemnities, as well as compensation for the prejudice which she considered she had suffered and the award of costs. Meanwhile, throughout this period, she had made several requests for information regarding the constitution of the ad hoc Appellate Body, the minutes of the 41st Board's meeting and the approved annual budget for 2019. She had also sought mediation, but with no result.

The complainant's internal appeal submissions were transmitted by the Chairperson of the Centre's Board to the ad hoc Appellate Body in August 2019. No written reply was provided by the Chairperson to those submissions.

The ad hoc Appellate Body issued its report on 29 October 2019. It concluded that there were valid, objective and substantiated reasons not to renew the complainant's contract and did not quash the non-renewal decision nor recommend her reinstatement. However, it found that there was a procedural irregularity, lack of transparency and of good faith and a breach of the Centre's duty of care towards her concerning the one-month extension of her contract. It "recommended" that the complainant be awarded material damages equivalent to two months' full pay at the rate applicable to the date of her separation, 3,000 United

States dollars in moral damages and 1,000 dollars in costs. Sections B and C of Annex VII to the Staff Regulations provide that the decision of the ad hoc Appellate Body shall be final and executory and can be impugned before the Tribunal. Accordingly, this is the impugned decision.

The Appellate Body's decision was transmitted to the complainant on 28 November 2019.

The complainant asks the Tribunal to quash the Executive Director's decision "of terminating [her] engagement", to consider that the one-month notice was grounded on "expediency" and that her contract was in fact abolished before its regular termination (that is to say, 31 December 2019), to order compensation for the undue delay in organising the internal appeal procedure and to "recommend" her reinstatement as of 1 April 2019 on a post matching her skills and university qualifications. In addition to the indemnities agreed by the ad hoc Appellate Body and already paid to her, she seeks the appropriate termination indemnities based on adequate United Nations standards and rates and equivalent to at least nine months' salary. She also requests appropriate compensation for the material, moral and professional prejudice which she considers she has suffered, as well as the reimbursement of the legal costs she incurred upon presentation of invoices.

The South Centre asks the Tribunal to dismiss the complaint in its entirety.

In her rejoinder, the complainant quantifies the amount of compensation requested in her complaint. She seeks 80,000 United States dollars in termination indemnities, 90,000 dollars in material damages, 50,000 dollars in moral damages and either 100,000 or 20,000 dollars in professional damages for loss of revenue depending on whether the termination indemnities are attributed. She also quantifies the legal costs incurred in the amount of 8,000 dollars.

In its surrejoinder, the South Centre argues that the amounts claimed are exorbitant and unacceptable.

CONSIDERATIONS

1. By her complaint of 26 February 2020, the complainant impugns in the Tribunal the decision of the ad hoc Appellate Body of the South Centre rendered on 29 October 2019. In that decision, the Appellate Body found that there were valid, objective and substantiated reasons for discontinuing the in-house translation services at the South Centre and thus for not renewing the fixed-term contract of the complainant. It found, however, that there was a procedural irregularity, lack of transparency and of good faith, and a breach of its duty of care by the South Centre in the implementation of the decision to extend the ultimate fixed-term contract of the complainant for one month, followed by a non-renewal of such contract. As a result, the Appellate Body “recommended” that the South Centre pay the complainant material damages corresponding to two months of the full salary she would have been entitled to had the organization acted in a procedurally regular manner. The Appellate Body also “recommended” that the South Centre pay the complainant moral damages in the amount of 3,000 United States dollars and 1,000 dollars in legal costs.

2. The organization sought the joinder of this complaint with another complaint filed on the same day by another translator. However, as each concerns the non-renewal of fixed-term appointments of individual employees, it is appropriate to address each complaint separately. This is so, even though there is a considerable overlap of the analysis in each judgment. The request for joinder is therefore rejected.

3. Pursuant to the South Centre Staff Regulations, more particularly Regulation 11.2 found in Article XI pertaining to “Appeals”, the Appellate Body is established by the Board of the South Centre, according to the criteria and procedures set out in Annex VII, to hear and adjudicate on appeals from staff members. Section B of this Annex VII, entitled “Appellate Body”, is the Section relevant to the impugned decision at issue. Paragraphs 1 to 6 of this Section B relevantly state the following:

- “1. A staff member wishing to appeal an administrative decision, or a decision taken consequent to the processes set out above on disciplinary measures and procedures, must, within one month of the date of receiving notification of the decision in writing, notify the Board, through the Chairperson, of intent to appeal. [...]
2. Within one month of receipt of the staff member’s notice of intent to appeal, the Chairperson of the Board shall refer the appeal to an ad hoc Appellate Body, consisting of three of its members, one of whom shall act as Chairperson.
3. The ad hoc Appellate Body shall receive the staff member’s written appeal, and a written reply thereto by the Chairperson of the Board, together with the report to him/her of the Ad Hoc Internal Disciplinary Advisory Panel. It may also hear further observations on, or rebuttals to, the initial written submissions, orally or in writing. It may also call for oral testimony from the parties or witnesses, including from members of the Secretariat, and for supporting documentation.
4. [...]
5. The ad hoc Appellate Body shall forward its decision through its Chairperson to the full Board of the South Centre, and to the appellant not later than one month from the date it hears the appeal.
6. Without prejudice to any further recourse by the staff member concerned to the [...] Tribunal [...], the decision of the ad hoc Appellate Body shall be final and executory ninety days from the date of receipt by the Board of such decision.” (Emphasis added.)

While Section B of this Annex VII provides that the decision of the Appellate Body is final and executory after ninety days, paragraph 1 of Section C, entitled “Recourse to the ILO Administrative Tribunal”, indicates that, in disciplinary or administrative cases like here, such a decision may be impugned in the Tribunal by the staff member.

4. In her complaint form and brief, where she states that she is impugning the above decision of the Appellate Body in the Tribunal pursuant to these provisions of the Staff Regulations, the complainant asks the Tribunal the following:

- (a) to quash the Executive Director’s decision of terminating her engagement based on lack of legal basis, no objective reasons and an invalid and an irregular reassignment process;

- (b) to consider that her contract should have continued until December 2019;
- (c) to compensate the undue delay in organising the internal appeal depriving her of providing updated information to the Appellate Body that finally took a decision based on initial information;
- (d) to provide, in addition to the indemnities agreed by the Appellate Body, appropriate termination indemnities based on adequate United Nations standards and rates and equivalent to at least nine months' salary;
- (e) to recommend reinstatement to a similar post if agreeable;
- (f) in any case, to provide appropriate compensation for material, moral and professional prejudice; and
- (g) to reimburse her legal costs on presentation of invoices.

She maintains the same claims in her rejoinder but adds that the termination indemnities to which she is entitled amount to 80,000 United States dollars, that her material damages should be set at 90,000 dollars given her nine years' career, that, if her termination indemnities are granted, she should also be paid an additional amount for loss of revenue of 20,000 dollars, that moral damages should be granted for 50,000 dollars and that her legal costs reimbursement should be set at 8,000 dollars.

5. At this point, one matter should be noted. As is apparent from the provisions quoted in consideration 3 above, the Appellate Body's decisions are final. Thus, unlike the appellate framework in many international organizations, the final decision on an appeal does not rest with the Executive Head of the organization. In its pleas, the South Centre challenges some of the reasoning and conclusions of the Appellate Body.

Given that this body is invested under the South Centre's Regulations with the power to make a final decision binding on the organization, it may be doubted that the South Centre is able to impeach its decision-making in the Tribunal. However, this issue was not raised in the pleas and nothing more needs to be said in this judgment.

6. The circumstances leading to the complainant's appeal to the Appellate Body and to the latter's decision are not in dispute. On 28 September 2018 the Administration informed all staff members that since the annual budget of the Centre was to be presented at the next Board meeting to be held in October 2018, and to notably align with the best practices with regard to the issuing of staffing contracts, it had been decided that all the contracts due to expire on 31 December 2018 were being extended to 31 January 2019. The letter indicated that once the budget was approved, the contracts would be extended following the usual practice. It further indicated that this was being done for that year as an exception to ensure consistency between expenditure approval and expenditure commitment.

7. One month later, on 26 October 2018, following the 41st meeting of the Board, the programme coordinator informed the complainant that the Executive Director had decided, having in view the costs and output of the translation done in-house and the consideration given by the Board, that her contract ending 31 January 2019 would not be renewed or extended. She was informed that the decision had been taken to reduce the current costs of in-house translation to the Centre while increasing the translated output, as necessary, by way of outsourcing. The complainant notified her intent to appeal against this decision on 16 November 2018, following which the Appellate Body was set up, leading to the impugned decision of 29 October 2019.

8. The complainant seeks oral proceedings. But given the complete written submissions made by the parties in their pleadings and through the filing of their supporting documents, the Tribunal considers the oral proceedings are unnecessary, and the request is therefore rejected.

9. While the complainant agrees with the Appellate Body that there was a procedural irregularity, lack of transparency and of good faith, and breach of its duty of care by the South Centre in the implementation of its decision to extend her contract by merely one month and afterwards advise her of its non-renewal, she disputes the findings of this body with regard to the consequences of this irregularity, the amount of material damages she is entitled to as a result and the quantum of moral damages

and costs that were awarded to her. She maintains that there were violations of due process because of the denial of an unfettered access to essential documents and because of the undue delay in organising the internal appeal process before the Appellate Body. She also argues that the decision to terminate her contract was tainted with procedural irregularities such that the alleged one-month extension was illegal, that reassignment was therefore due as well as termination indemnities, and that damages for much larger amounts were owed to her as a result.

10. The Tribunal agrees with the complainant and the Appellate Body that there were violations of due process by the South Centre and that the extension allegedly made of her fixed-term contract to 31 January 2019 was irregular such that she was, in the end, entitled to some compensation under the circumstances, albeit not to the extent she is seeking. The Tribunal disagrees, however, with the claims for reinstatement and for termination indemnities of the complainant, as well as with the quantum of the amounts of material and professional damages, of loss of revenue, of moral damages and of costs that she is claiming, even though she has established some limited entitlement in this regard.

11. The relevant provisions of the Staff Regulations of the South Centre pertaining to the current dispute, found in Articles IV and IX, read as follows:

**“ARTICLE IV
APPOINTMENT AND PROMOTION**

Regulation 4.1

The Board shall appoint the Executive Director. The Executive Director, with the concurrence of the Chairperson of the Board, shall appoint staff at the Professional or higher levels. The Executive Director shall appoint staff at the General Service levels and short-term staff on P Category. Upon appointment, each staff member shall receive a letter of appointment in accordance with the provisions of Annex III to the present Regulations.

[...]

4.1.4 Staff members shall be granted fixed-term or short-term appointments:

4.1.5 Fixed-term appointments shall be defined as appointments of one year or more. Contracts shall be 1 or 2 years duration, renewable. Appointments for longer periods may be made if funds are expected

to be available, subject to the condition explicitly stated in [I]letters of [a]ppointment that the extended period shall be dependent on funds being made available for ensuing budgetary periods to which the appointment refers.

[...]

- 4.1.7 Fixed-term and short-term appointments may carry no assurance of renewal. Staff should be advised in writing about renewal, or non-renewal of their appointment at least three months before the end of their contract.

[...]"

The footnote to Regulation 4.1.5 reads as follows:

"Interpretative clarification: In implementing and interpreting Regulation 4.1.5, in relation to Regulation 12.2, the following guidelines should be observed:

- (i) The minimum one-year period for fixed-term appointments stated in Regulation 4.1.5 shall be observed by the Executive Director in relation to the issuance of *initial* fixed-term appointments. Without prejudice to Regulation 4.1.7 that fixed- and short-term appointments may carry no assurance of renewal, subsequent renewals of fixed-term appointments should, as a general rule, be also for a minimum of one year per renewal;
- (ii) However, as a case-by-case exception to the general rule, pursuant to Regulation 12.2 in relation to Regulation 4.1.5 of the Staff Regulations and taking into account the exigencies and best interests of the Centre (such as in cases of funding shortfalls or in connection with the implementation of personnel management processes that may require the exercise by the Executive Director of flexibility in personnel assignments), the Executive Director may offer subsequent fixed-term appointments for durations shorter than one year to staff members who have been initially provided with fixed-term appointments as defined under Regulation 4.1.5. In doing so, the Executive Director shall take into account relevant [United Nations (UN)] rules, including but not limited to UN rules (such as UN Staff Rule 104.12(b)) and practice governing fixed-term appointments, and the experience and evolving circumstances of the South Centre as set out under Scope and Purpose. [...];
- (iii) [...]" (Emphasis added.)

**“ARTICLE IX
SEPARATION FROM SERVICE**

Regulation 9.1

Appointments, unless extended, shall terminate on the termination date set out in the [l]etter of [a]ppointment. Staff members so terminated shall be informed in writing at least three months in advance of the termination date that the appointment shall not be extended.

[...]

9.1.2 Any appointment may be terminated before the termination date specified in the related [l]etter of [a]ppointment, should the interest of the South Centre necessitate the abolition of the post, the reduction of staff, for incompetence or unsatisfactory service, or if a staff member is for health reasons unable to perform the duties of the post, subject to certification by a licensed physician that the staff member’s illness is likely to be permanent or of long duration. In such cases:

- (a) Staff members so terminated shall be given three months’ written notice.
- (b) Staff members so terminated may be given in cases this proves justified the equivalent salary and allowances in lieu of the period of notice.
- (c) Staff members whose appointments are so terminated shall be paid a termination indemnity according to United Nations rates, with the exception of staff members on short-term appointments terminated on the date specified in their [l]etters of [a]ppointment.
- (d) The final date of duty for staff members terminated for reasons of health shall not be before sick leave and any other paid leave entitlements have been exhausted, unless by mutual agreement.

[...]”

12. With respect to the violations of due process, the complainant has established that she was unduly deprived of essential information allowing her to ascertain whether the Staff Regulations were followed and to assess when and how the decision to outsource translation was taken. While it appears that the extracts of the minutes of the 41st meeting of the Board were provided to the complainant around 11 June 2019, the fact remains that two important documents were not made available to

her: on the one hand, the note on the Translation Unit prepared by the Administration and submitted to the Board at the 41st meeting and, on the other hand, the 2019 summary budget and 2019 personnel budget that were discussed at this 41st meeting.

The importance of these documents, inasmuch as the position of the complainant was concerned, is that they both indicated that, on 28 September 2018, when the Administration wrote to the complainant (as well as to the other staff of the South Centre) that the contracts were being extended to 31 January 2019 and that once the budget was approved, these contracts would be extended following the usual practice, the Administration most likely knew very well that it had no intention of doing so with respect to the Translation Unit and to the complainant. The analysis and studies had been done by then, the costs had been calculated and the budget had been prepared, such that the statements contained in the letter of 28 September 2018 were not transparent and accurate insofar as the complainant was concerned.

While the South Centre argues that the complainant did not suffer prejudice as a result, given that the Appellate Body found in the end that the extension of her contract to 31 January 2019 was indeed more of a subterfuge not to notify the complainant of the non-renewal of her fixed-term contract at the required time, it remains that this disregarded the rights of the complainant to proper due process in terms of the communication of documents. The case law of the Tribunal establishes that, as a general rule, a staff member must have access to all evidence on which the authority bases (or intends to base) its decision against her or him. Under normal circumstances, such evidence cannot be withheld on grounds of confidentiality (see, for example, Judgment 2700, consideration 6; see also, on the issue of breach of due process, Judgment 4412, consideration 14).

In Judgment 3948, consideration 10, the Tribunal also found that an organization had breached due process by failing to disclose documents that it had in its possession and that could have assisted to determine whether the reason given for not renewing the complainant's contract, that is, budgetary constraints, was a valid and objective reason.

The Tribunal found in that case that this breached due process as well as the duty of care of the organization to the complainant.

13. Finally, still regarding due process, the complainant raises the fact that she was not provided, during the appeal process before the Appellate Body, with the reply filed by the South Centre with this body. While the Tribunal observes that in its reply before it, the South Centre indicated that it did not file any response to the complainant's appeal in front of the Appellate Body, the fact remains that the latter made references to the South Centre arguments in the impugned decision. Thus, whether this argument was raised for the purposes of objecting to the receivability of the appeal or for contesting its merits, it remains that it should have been provided to the complainant and that it was not. This is not in conformity with the basic principles of a proper adversarial process.

14. Turning to the undue delay in organising the internal appeal process before the Appellate Body, the written proceedings and the annexes establish that the intent to appeal was submitted by the complainant on 16 November 2018, that extracts of the minutes of the 41st meeting were provided to her in June 2019, that, following the composition of the Appellate Body, the latter only received the complainant's submissions and brief of 26 March 2019 six months later, that is on 14 August 2019, and that the impugned decision of the Appellate Body was rendered on 29 October 2019, close to one year after the submission of the intent to appeal. Although it is true that the Staff Regulations do not provide for a specific timeframe within which the process in front of that body should be completed, the Tribunal has consistently held that international organizations have a duty to ensure that internal appeals are conducted with due diligence (see, for example, Judgment 4173, consideration 12, and the case law cited therein). Given that the matter at hand involved the termination, from the complainant's standpoint, of a fixed-term contract renewed regularly for many years, the Tribunal finds that the whole delay in the internal appeal process of the Appellate Body was excessive and unreasonable.

15. As a result, even though the findings of the Appellate Body that there was a procedural irregularity in this matter and a breach by the organization of its duty of care in implementing the decision at issue were well founded, it failed to properly appreciate the breach of due process suffered by the complainant.

16. With respect to the findings of the Appellate Body that there were valid, objective and substantiated reasons for discontinuing in-house translation and thus ultimately not renewing the contract of the complainant, notwithstanding the latter's understandable disagreement, it remains that, based on the analysis conducted by the Administration and the costs evaluations made, there were justifications for the outsourcing of translation services that, in fact, permitted significant savings while reducing translation times as well as increasing the number of translated languages. This is supported by the written submissions filed as well as by the annexes. In Judgment 3376, at consideration 2, the Tribunal indicated that "[t]he outsourcing of certain services, that is to say the use by an organisation of external contractors to perform tasks that it feels unable to assign to officials hired under its staff regulations, forms part of the general employment policy that an organisation is free to pursue in accordance with its general interests. The Tribunal is not competent to review the advisability or merits of the adoption of such a measure in a specific field of activity".

The findings of the Appellate Body in this regard are well supported by the record. This plea is unfounded.

17. The main ground of contestation of the complainant concerns the alleged illegal extension of her fixed-term contract by the letter of the Administration of 28 September 2018, and the improper assessment made by the Appellate Body of the legal consequences of this illegal extension on the subsequent notice of non-renewal of her fixed-term contract. Given that the extension was, in her view, illegal, the complainant contends that, had the Administration proceeded with due consideration of the applicable Staff Regulations, in a situation where her fixed-term contract would have been renewed for another year because of the lack of notice of non-renewal within three months preceding its scheduled

termination on 31 December 2018, and since the true reasons for the termination had to do with either an abolition of post or a reduction of staff, the provisions of Regulation 9.1.2(c) should have been applied. She therefore argues that she was entitled not only to the three-months notice that she ultimately received following the Appellate Body's impugned decision, but also to the termination indemnities provided for under this Regulation 9.1.2, something that the Appellate Body ignored in its analysis.

18. The Tribunal agrees with the complainant, as the Appellate Body indeed found as well, that the record supports the conclusion that the alleged extension of her fixed-term contract for one month to 31 January 2019 through the communication of the Administration on 28 September 2018 was done "for expediency purposes" and to gain time and was in fact a lure inasmuch as the complainant and the other translator were concerned. The record clearly indicates that it was obvious at the end of September 2018 that, in their situations, there would be no further renewal of their contracts following the usual practice and that, based on the contemplated budget and the analysis made by the Administration, the extension was simply granted in order to allow the latter to obtain the proper approval of the Board to put in place a decision the Administration had already reached.

While it is true that Staff Regulation 4.1.5, in a footnote, contains an interpretative clarification that indicates that the Executive Director may have some flexibility, taking into account the exigencies and best interests of the South Centre, to offer fixed-term appointments for a duration shorter than one year to staff members who have initially been provided with fixed-term appointments, this hardly applies in a situation where an extension is being granted for another ulterior purpose and simply to buy time before proceeding to the non-renewal of a fixed-term contract. This interpretative clarification cannot be read or understood as allowing the organization to circumvent the three-month notice of non-renewal that it is otherwise required to provide and to allow it to do indirectly what it cannot do directly. In this regard, the Tribunal disagrees with the South Centre's position that, given that this was a valid extension that could be made pursuant to Regulation 4.1.5, the

organization was entitled to simply not renew the extended fixed-term contract of the complainant with a three-month prior notice as it did on 26 October 2018.

Rather, as the complainant correctly emphasizes, since this extension was a lure that should therefore be simply discarded, the reality is that her fixed-term contract ending on 31 December 2018 was never the subject of a timely notice of non-renewal three months prior to its expiry. This did not entail, however, as the complainant argues, that her fixed-term contract had somehow been renewed for another year on 1 January 2019. At best, this rather entails that the South Centre ended up providing the complainant with a notice of non-renewal that was not timely, the consequences of which were duly taken into consideration by the Appellate Body in granting to the complainant additional compensation equal to two months' salary as a result. To suggest, as the complainant pleads, that Regulation 9.1.2 should have rather been followed because the Administration terminated in reality a fixed-term contract or appointment before its expiry date in the interest of the Centre as a result of either an abolition of post or a reduction of staff, would stand in stark contradiction with what the record indicates. It is indeed clear that the Centre intended not to renew the fixed-term contract of the complainant, even though it proceeded in a manner that was neither transparent nor truthful in trying to lure her into an arrangement which purported to be an extension but was not.

19. In this regard, it is worth recalling that the case law of the Tribunal has often reiterated that an employee on a fixed-term contract does not have a right to the renewal of the contract when it expires (see, for example, Judgments 4462, consideration 18, 3586, consideration 6, and 3448, consideration 7), and that the Tribunal's scope of review is limited when an organization decides not to extend or renew a fixed-term appointment (see Judgment 3948, consideration 2, and the case law cited therein).

20. The claims of the complainant for the payment of termination indemnities, which rely on the provisions of Staff Regulation 9.1.2 that apply in situations of termination of an appointment as opposed to non-renewal of a fixed-term contract, must consequently be rejected.

21. In her submissions, the complainant has also insisted on her “entitlement to a reassignment”. However, she did not point to any Staff Regulation that would allow for such. Her claim in this regard is indeed vague and worded along the lines of a recommendation which is not for the Tribunal to order. In its submissions, the South Centre has established that the reassignment of the complainant was simply impracticable because there was no other substantive function that she could have performed at the Centre. None of the submissions of the complainant seriously challenge that assertion. While the Tribunal has stated in Judgment 3353, consideration 35, that the reinstatement of a person on a fixed-term contract can be ordered in exceptional cases, this case is not one where this could apply.

22. Over and above her claims for termination indemnities and reinstatement, the complainant further claims an additional indemnity for material damages estimated at 90,000 United States dollars, another indemnity in professional damages for loss of revenue estimated at 20,000 dollars, moral damages estimated at 50,000 dollars and legal costs of 8,000 dollars.

23. For these material and professional damages, the submissions of the complainant indicate that these are, in reality, a form of disguised termination indemnity that relate to the impact of her termination on herself and her family. As the South Centre rightly observed in this regard, while the complainant’s personal situation could be seen as unfortunate, the personal problems developed in her submissions cannot be attributed to the organization. In situations where fixed-term contracts under the Staff Regulations do not carry any expectation or assurance of indefinite renewals, these claims are groundless. In Judgment 4462, consideration 18, the Tribunal has confirmed that employees on a fixed-term contract do not have a right to renewal upon expiration. The

Tribunal agrees with the findings of the Appellate Body in this regard to the effect that these additional material and professional damages were not established.

24. Turning to the moral damages, the Appellate Body's decision awarded 3,000 United States dollars to the complainant in this regard. The reasons for doing so were based on the lack of transparency and good faith of the organization in departing from its duty of care obligation in the circumstances. The reasons of the Appellate Body do indicate, however, that in assessing moral damages no consideration was given to the due process breach discussed above or the unreasonable delay in the treatment of the complainant's appeal. The Tribunal considers that an additional amount of 5,000 dollars in moral damages should be granted to the complainant in this regard.

25. Finally, regarding costs, the Tribunal finds that the entitlement of the complainant should be fixed at an amount of 8,000 United States dollars.

DECISION

For the above reasons,

1. The South Centre shall pay the complainant an additional amount of 5,000 United States dollars in moral damages.
2. It shall also pay the complainant 8,000 United States dollars in costs.
3. All other claims are dismissed.

In witness of this judgment, adopted on 3 November 2022, Mr Michael F. Moore, President of the Tribunal, Sir Hugh A. Rawlins, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 1 February 2023 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE

HUGH A. RAWLINS

CLÉMENT GASCON

DRAŽEN PETROVIĆ