Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

G.

v.

ILO

137th Session **Judgment No. 4808**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the International Labour Organization (ILO) filed by Ms C. G. on 9 February 2021 and corrected on 31 May, the ILO's reply of 4 August 2021, the complainant's rejoinder of 8 September 2021 and the ILO's surrejoinder of 13 October 2021;

Considering Articles II, paragraph 1, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

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

The complainant challenges the outcome of the investigation procedure conducted in respect of her harassment grievance and the resulting lack of compensation.

Following negotiations between the International Labour Office ("the Office"), the secretariat of the ILO, and the ILO Staff Union, Article 13.4 of the Staff Regulations was amended with effect from 1 January 2015 to introduce a procedure for the administrative resolution of harassment grievances. Article 13.4(5) now provides that, in the case of a harassment grievance requiring investigation, the Director of the Human Resources Development Department (HRD) is to nominate an independent investigator who, pursuant to Article 13.4(8), is to carry out the investigation promptly and with the

highest standards of impartiality, objectivity, fairness and due process. To this end, Article 13.4(9) provides that the investigator is to conduct any inquiry necessary to investigate the case, including by reviewing the grievance, the statements of the parties and any documents supplied and conducting interviews with the parties and any witnesses or staff members deemed relevant to the investigation. Under Article 13.4(13), the investigation is normally to be concluded within 60 working days of the receipt of the grievance by the investigator, except where, in the investigator's opinion, exceptional circumstances require additional time. Finally, Article 13.4(18) provides that the claimant and the respondent shall be entitled to file a complaint against the express or implied decision taken on the basis of the investigation report directly with the Tribunal, excluding the stage of an appeal before the Joint Advisory Appeals Board.

The complainant joined the Office on 1 March 2016, as Senior Translator/Reviser at grade P.4, in the French Unit of the Official Documentation Branch (OFFDOC) in the Official Meetings, Documents and Relations Department (RELMEETINGS), under a one-year fixed-term contract at 80 per cent working time. In November 2016, the Director of RELMEETINGS offered her a secondment to the Interpretation Unit, from March 2017, to assume the functions of Chief Interpreter *ad interim* after the retirement of the incumbent, Mr N., which she accepted. Since the incumbent's contract was finally extended to 30 November 2017, the complainant was officially seconded to the Interpretation Unit from 8 May to 17 June 2017 – a period coinciding with the preparations for and the holding of the International Labour Conference (ILC) – and from 1 September to 30 November 2017, in order for her to prepare to assume the functions of Chief Interpreter from 1 December 2017.

In July 2017, the complainant made an appointment with her contact in HRD and the Director of RELMEETINGS in order to bring to their attention a number of hostile and humiliating behaviours and actions to which she claimed to have been subjected by Mr N. and his assistant, Ms D., during the 2017 ILC. These behaviours and actions continued, according to the complainant, between 1 September and

30 November 2017, the date of retirement of Mr N., and she noted a relative improvement in her relations with Ms D. as from 1 December. As a result of an accident, Ms D. was placed on sick leave from February to September 2018.

On 11 April 2018, the Office published a vacancy announcement for the post of Chief Interpreter at grade P.5 to which the complainant was appointed on an interim basis and for which she began receiving a special post allowance as from 1 June. The complainant applied for the post but was not selected at the end of the selection procedure, of which she was unofficially informed on 14 September 2018.

Meanwhile, on 14 and 22 June 2018, the Deputy Director-General for Management and Reform (DDG/MR) had received two anonymous letters calling into question the complainant's ability to assume the functions of Chief Interpreter and mentioning mistakes made by her during the 2018 ILC.

As of 18 September 2018, the complainant – who had become aware of the existence of these letters – was placed on sick leave. In early October, she obtained authorization to resume work at 50 per cent, but was again placed on leave for medical reasons following, she alleges, inappropriate behaviour by Ms D. She spent several months alternately on sick leave and working part-time, then, on 14 January 2019, resumed her duties as Senior Translator/Reviser at grade P.4 in OFFDOC. On 15 March, she filed a claim for compensation under Article 8.3 of the Staff Regulations and Annex II thereto, in order that her illness be recognized as service-incurred.

On 2 April 2019, pursuant to Article 13.4 of the Staff Regulations, the complainant submitted a grievance relating to harassment inflicted on her by Mr N. and Ms D. On 15 April, the Director of HRD notified her of his decision to declare the grievance irreceivable on the ground that she had failed to submit it within the time limit of six months under Article 13.4(3)(a) of the Staff Regulations. The complainant acknowledged receipt of this letter and challenged the argument that the grievance was irreceivable *ratione temporis*, then, on 18 April, referred the matter to the Joint Advisory Appeals Board under Article 13.4(17) of the Staff Regulations.

In its report of 23 July 2019, the Board recommended that the Director-General set aside the decision of 15 April, find the harassment grievance receivable under Article 13.4(4)(a) of the Staff Regulations and consider the matter further. By letter of 7 August 2019, the complainant was informed of the Director-General's decision to endorse these recommendations. An investigation was then launched and assigned to an investigator in the Office of Internal Audit and Oversight, who conducted several interviews with the persons concerned and gathered all of the information deemed necessary in order to establish the facts.

On 27 May 2020, while the investigation was under way, the complainant – who continued to alternate between sick leave and part-time work – was informed that her claim for compensation for service-incurred illness had been accepted.

On 15 October 2020, the investigator finalized her report, in which she concluded that two specific allegations of harassment by Mr N. were well founded and observed that "the cumulative effect of the incidents [alleged by the complainant to have been committed by Mr N.] could reasonably be considered as harassment"[*]. All of the other allegations against Mr N. and Ms D. were dismissed as unfounded. With respect to the anonymous letters received by the DDG/MR on 14 and 22 June 2018, the investigator considered that there was no evidence that Mr N. was in any way involved in drafting or sending them and concluded that there was nothing to indicate that these documents had affected the recruitment procedure for the post of Chief Interpreter at grade P.5.

By letter of 12 November 2020, the complainant was notified of the Director-General's decision to endorse the investigator's conclusions. The complainant was also advised that the Office could not take corrective action against Mr N. and Ms D. because they had retired but that the investigation report would help in some measure to bring the matter to a close. Acknowledging that the investigative process could be perceived as a difficult step, the Director-General invited the

[*] Registry's translation.

complainant to make her needs known to HRD. This is the impugned decision.

The complainant asks the Tribunal to set aside the impugned decision, to examine by itself the merits of her harassment grievance and to award her damages in the amount of 75,000 Swiss francs under all heads. She also claims costs and asks the Tribunal to take any action it deems fit to remedy the situation completely.

The ILO considers that the only question before the Tribunal is whether the complainant is entitled to receive financial compensation for the established acts of harassment to which she has been subjected. It asks the Tribunal to dismiss the complaint as unfounded in its entirety.

CONSIDERATIONS

1. The complainant impugns the Director-General's decision of 12 November 2020 informing her that he endorsed the findings of the investigation report issued by an investigator in the Office of Internal Audit and Oversight on 15 October 2020. This report followed a grievance relating to harassment submitted by the complainant on 2 April 2019 to the Director of the Human Resources Development Department (HRD) pursuant to Article 13.4 of the Staff Regulations.

2. The investigation report related to behaviours that the complainant considered to constitute harassment by two former staff members, namely Mr N., Chief Interpreter, and Ms D., Administrative Assistant, both of whom had retired when the grievance was submitted on 2 April 2019. The report also referred to two anonymous letters sent to the Deputy Director-General for Management and Reform (DDG/MR) – which allegedly originated from Mr N., according to the complainant – criticizing the complainant's work in the Organization.

3. In the report, the Tribunal notes first that the investigator wrote the following concerning the behaviour of Mr N.:

> "362. The investigator has examined all the evidence in the body of the report and the annexes thereto and considers that the actions of Mr [N.] constituted harassment on two occasions.
>
> [...]
>
> 364. The term 'harassment' is defined as 'any form of treatment or behaviour by an individual or group of individuals in the workplace or in connection with work, which in the perception of the recipient can reasonably be seen as creating an intimidating, hostile or abusive working environment or is used as the basis for a decision which affects that person's employment or professional situation'.
>
> 365. While the majority of Mr [N.]'s individual acts do not in themselves constitute harassment, **the cumulative effect of these acts,**
>
> - **which were similar in terms of pattern and behaviour,**
> - **which occurred over a very brief and therefore intense period when there was plainly a dysfunctional and unhealthy working environment and**
> - **which continued throughout the temporary secondment of [the complainant],**
>
> 366. **Might reasonably have had a negative and unhealthy impact on the working environment and the capacity of [the complainant] to familiarize herself with the requirements of the post. Taking into account the two occasions on which Mr [N.] shouted at [the complainant], the investigator concludes that the cumulative effect of the incidents could reasonably be considered as harassment.**"[*] (Original emphasis.)

With regard to the behaviour of Ms D., however, the investigator made the following comments:

> "497. The investigator considers that the individual acts of Ms [D.] did not constitute harassment.
>
> [...]
>
> 500. The individual acts of Ms [D.] did not constitute harassment as such. The time that the two persons concerned spent together was minimal during the secondment of [the complainant] to the Interpretation Unit since both of them were on extended sick leave at different

[*] Registry's translation.

> times. In the investigator's opinion, the cumulative effect of these acts **did not constitute harassment**."[*] (Original emphasis.)

Lastly, with regard to the anonymous letters, the investigator emphasized that it had not been possible from the review of all available elements to establish the identity of the author conclusively, and that, in her view, it was highly probable that they did not originate from Mr N. as there was no evidence of his involvement.

4. The Tribunal notes that the impugned decision of 12 November 2020, which followed the reception of the investigation report, reads as follows:

> "The Director-General concluded that the evidence contained in the report justifies the conclusion that two of your harassment allegations against Mr [N.] were substantiated and that this created a hostile work environment. Concerning the other allegations you raised against Mr [N.], the Director-General concurred with the findings of the investigator that they were not substantiated.
>
> With regard to the allegations raised against Ms [D.], the Director-General agreed with the conclusion of the investigator that they were not substantiated.
>
> The investigator was not able to identify the persons responsible for the two anonymous letters addressed to the Office in the context of the ILC 2018. The Director-General has however taken note of the investigative findings to the effect that there is no evidence that Mr [N.] was in any way associated with, or responsible for, those letters. [...]
>
> The Director-General is however very concerned by the report findings, which reveal that there was undoubtedly a tense working environment and finds it of deep concern that these unfortunate incidents should have occurred. In light of the Office's anti-harassment policy it is clear that Mr [N.] should not have acted as he did towards you and were he still in service this conduct would undoubtedly be subject to disciplinary review. Regrettably, in light of fact that both Mr [N.] and Ms [D.] had retired prior to the submission of your complaint, it was not possible for the Office to undertake any remedial measures to address the working relationships at the time. Similarly, the fact that Mr [N.] retired in November 2017 means that a disciplinary review cannot be undertaken. [...]

[*] Registry's translation.

> The Director-General is aware that your health concerns subsequent to some of the events documented in your complaint have been recognised as service incurred within the scope of Annex II of the Staff Regulations and that you have been duly protected and compensated in that regard. It is hoped that the investigation report will help in some measure to bring the matter to a close. Noting that Mr [N.] and Ms [D.] have retired, the Director-General hopes that you will now feel able to continue working in a supportive and rewarding environment. We do however acknowledge that the investigative process is itself difficult and in the event that you do require any further support or assistance you are encouraged to make your needs known to HRD."

5. In her submissions, the complainant mainly contends that the impugned decision is unlawful and should be set aside on grounds of the Organization's failure to conduct a review of the compensation to which she was entitled following the reported harassment and its refusal to compensate her financially for the injury which she alleges to have suffered. The Tribunal considers that these pleas, concerning failure to consider an essential fact and errors of law, are decisive for the outcome of this dispute.

6. The relevant legal framework in this case is based on the Collective Agreement on Anti-Harassment Policy and Investigation Procedure ("the Collective Agreement") concluded between the Staff Union and the Office, further to which Article 13.4 of the Staff Regulations was amended with effect from 1 January 2015. This provision establishes a new definition of harassment and sets out the rules governing the investigation procedure to be followed in the event of a grievance.

In Article 4(1) of the Collective Agreement, the Office acknowledged that it had a duty of care towards its employees and needed to take all reasonable, practicable preventive and protective measures to provide a safe, healthy and secure working environment, free from harassment.

As to the provisions that were added to the Staff Regulations following the signature of the Collective Agreement, Article 13.4 relevantly provides as follows with regard to the definition of harassment (paragraph 1), the nomination of an investigator in the case

of a harassment grievance requiring investigation (paragraph 5), time limits for conducting such investigations (paragraph 13) and the measures to be taken on the basis of the findings of the investigation report (paragraph 15):

> "1. The term 'harassment' is defined as 'any form of treatment or behaviour by an individual or group of individuals in the workplace or in connection with work, which in the perception of the recipient can reasonably be seen as creating an intimidating, hostile or abusive working environment or is used as the basis for a decision which affects that person's employment or professional situation'.
>
> [...]
>
> 5. In the case of a harassment grievance requiring investigation the Director of the Human Resources Development Department shall nominate an investigator and inform the claimant and the respondent of the identity of the investigator within ten working days [...] The investigator shall be nominated from a list of qualified independent investigators established and maintained by the Joint Negotiating Committee.
>
> [...]
>
> 13. The investigation shall be conducted as expeditiously as possible and shall normally be concluded within sixty working days of the reception of the grievance by the investigator, except where, in the investigator's opinion, exceptional circumstances require additional time.
>
> [...]
>
> 15. The Director-General shall determine whether disciplinary action(s) in accordance with Chapter XII of the Staff Regulations, or any other administrative measures, are deemed necessary in response to the findings of the investigation report. Within twenty working days of the receipt of the investigation report, the Director-General shall notify the claimant and the respondent of his/her reasoned decision as to possible disciplinary action(s) and possible administrative measures, including compensation. The Director-General shall also indicate, where necessary, the proposals of the Office to improve the working environment. A copy of the investigation report shall be attached to the Director-General's decision."

7. These provisions indicate that it is the Organization's responsibility to show diligence in handling grievances relating to harassment and that, in situations where the existence of harassment has been recognized and where injury has ensued, the Organization is bound to protect the staff member concerned. In this regard, on the one

hand, the Collective Agreement establishes in its guiding principles that a staff member who has been subjected to any form of harassment "has a right of redress" and, on the other hand, Article 13.4(15) of the Staff Regulations expressly provides that, once the findings of an investigation report come to his/her attention, the Director-General shall notify the claimant of his/her reasoned decision "as to possible disciplinary action(s) and possible administrative measures, including compensation".

8. The Tribunal first notes that, in the impugned decision, the Director-General inferred from the findings contained in the investigation report that "the evidence contained in the report justifie[d] the conclusion that two [...] harassment allegations against Mr [N.] were substantiated and that this create[d] a hostile work environment", while also emphasizing that he agreed with the conclusions that the other harassment allegations relating to Mr N. and Ms D. were not substantiated.

The Tribunal considers that this assertion by the Director-General overlooked the express finding in the investigation report concerning "the cumulative effect of the incidents" surrounding the other acts with which Mr N. was charged, which, taken individually, did not constitute harassment. In her report, the investigator, having identified two incidents which, in her concluding analysis, constituted harassment as individual events, turned to consider "the cumulative effect" of the other individual acts of which the complainant accuses Mr N. On this subject, the investigator expressly stated that "the cumulative effect" of these acts, which were, first, similar in terms of pattern and behaviour, then occurred over a very brief and intense period when there was plainly a dysfunctional and unhealthy working environment and, lastly, continued throughout the complainant's temporary secondment, "[m]ight reasonably have had a negative and unhealthy impact on the working environment and the capacity of [the complainant] to familiarize herself with the requirements of the post". The investigator added that in her view, "[t]aking into account the two occasions" which constituted harassment as individual incidents, "the cumulative effect of the incidents could reasonably be considered as harassment".

Since the Director-General overlooked this crucial aspect of the report in his review of its findings and, accordingly, in the choice of the measures that may consequently be taken, the Tribunal is of the opinion that the impugned decision is flawed by a failure to take into consideration an essential fact. This misunderstanding of the report clearly influenced the perception of the nature and extent of the harassment that the investigator had found to have been established and was a crucial factor in the Director-General's analysis.

9. The Tribunal further notes that, in the impugned decision, the Director-General did not properly analyse whether or not it was appropriate to provide compensation for the moral injury suffered by the complainant as a victim of the harassment identified by the investigator in her report and recognized by the Organization.

In so doing, the Director-General acted in breach of Article 1(4) of the Collective Agreement, which specifically provides that, in the Office, "[a]nyone subjected to any form of harassment has a right of redress", as well as Article 13.4(15) of the Staff Regulations, which requires him to notify the complainant of his reasoned decision as to possible disciplinary actions and possible administrative measures, "including compensation". These provisions established the complainant's right to obtain explanations concerning compensation measures that may have been imposed taking into account the harassment identified in the investigation report; however, the Director-General did not attempt such explanations in the impugned decision. The Tribunal recalls that a collective agreement becomes part of the law of the international civil service and should be applied in accordance with its terms and the intention of its authors.

In this regard, the Tribunal notes that the Director-General's comments in the impugned decision concerning the disciplinary actions or corrective measures that could not be taken due to the retirement of Mr N. and Ms D. did not relate to compensation for the victim of the harassment, namely the complainant.

Furthermore, the Tribunal notes that the Director-General appears to have considered that the payment of benefits received by the complainant under Annex II to the Staff Regulations, further to the recognition of the health problems from which she suffered as a result of the harassment as a service-incurred illness, covered all the injury suffered by the complainant. However, such benefits are not intended to cover the moral injury resulting from this harassment.

The Tribunal further notes that the Director-General's other comment contained in the impugned decision, that the investigation report would help in some measure to bring the matter to a close, did not, in the circumstances of the case, constitute adequate compensation.

With regard to the Director-General's comment that, if the complainant required any further support or assistance he encouraged her to make her needs known to HRD, this also was not compensation.

10. In its submissions, the ILO maintains that Article 13.4(15) of the Staff Regulations "allows the Director-General to consider 'compensation', but does not create a right to compensation for the staff members concerned"[*]. The Organization adds that, where a right to compensation exists, express provision is made in the relevant texts. However, it contends that there is no express provision requiring the Director-General to award financial compensation in the procedure for the administrative resolution of harassment grievances.

The Tribunal cannot accept the defendant's reading of the relevant provisions, which provide expressly for the right to redress of a staff member subjected to harassment and require the Director-General to consider the applicable remedies in a situation where harassment is recognized. The assertion that no express provision requires the Director-General to grant financial compensation is based on a confusion between the right to redress and the nature of the relief that could be awarded. While it is true that redress does not automatically imply the award of financial compensation and that, in some cases, measures other than the payment of a sum of money may prove

[*] Registry's translation.

adequate, the fact remains that the Organization ought first to have determined the appropriate redress for the complainant in the circumstances of the case, which it did not properly do.

11. Furthermore, in Judgment 4602, considerations 14 and 16, the Tribunal recalled that, even in a situation where no provision in the internal regulations, rules or policies directly provides for the possibility of a compensation to victims of harassment, its case law clearly recognizes the right to such compensation when properly supported:

> "14. Notwithstanding this, the Tribunal considers that the WTO's assertion, to the effect that no provision in the internal regulations, rules or policies directly provides for the possibility of a compensation to the individuals who filed a harassment complaint, is in tension with and indeed ignores its rather clear case law which recognises the right to such compensation when properly supported. In Judgment 4207, consideration 15, adopted by all seven judges, the Tribunal wrote the following on this issue:
>
> 'It is observed that there are no specific provisions in the IAEA's Staff Regulations and Staff Rules that articulate a comprehensive procedure to deal with a claim of harassment of the type first discussed in the preceding consideration. In the absence of a lawful comprehensive procedure within the IAEA's Staff Regulations and Staff Rules to deal with a claim of harassment, the IAEA had to respond to the complainant's claim of harassment in accordance with the Tribunal's relevant case law. It is well settled in the case law that an international organization has a duty to provide a safe and adequate working environment for its staff members (see Judgment 2706, consideration 5, citing Judgment 2524). As well, 'given the serious nature of a claim of harassment, an international organization has an obligation to initiate the investigation itself [...]' (see Judgment 3347, consideration 14). Moreover, the investigation must be initiated promptly, conducted thoroughly and the facts must be determined objectively and in their overall context. Upon the conclusion of the investigation, the complainant is entitled to a response from the Administration regarding the claim of harassment. Additionally, as the Tribunal held in Judgment 2706, consideration 5, 'an international organisation is liable for all the injuries caused to a staff member by their supervisor acting in the course of his or her duties, when the victim is subjected to treatment that is an affront to his or her personal and professional dignity' (see also Judgments 1609, consideration 16, 1875, consideration 32, and 3170, consideration 33). Thus, an international organization must take proper actions to protect a victim of harassment.'
>
> These principles have been recognized by the Tribunal's case law in a number of situations before that Judgment 4207 (see, for example, Judgments 3995, consideration 9, and 3965, considerations 9 and 10) as well

as after that Judgment 4207 (see, for example, Judgments 4547, consideration 3, and 4541, consideration 4).

[...]

16. The Tribunal observes that the WTO's position is not that victims of harassment are not entitled to compensation. It rather argues that relief must be confined to compensation for the injury caused and that a finding of an unlawful act does not in itself establish a sufficient ground for compensation. The Tribunal in fact understands from the assertions contained in the WTO's pleadings that the Organization recognizes the complainant's strong emotions in relation to her request for additional compensation and does not wish, by its contestation, to belittle her feelings in this regard in any way. The WTO emphasizes, however, that any requests for additional compensation sought by the complainant must still meet the applicable legal requirements. On this matter, the Tribunal's case law indicates that any complainant seeking compensation for material or moral damages must provide clear evidence of the injury suffered, of the alleged unlawful act, and of the causal link between the injury and the unlawful act (see, for instance, Judgments 4158, consideration 4, 3778, consideration 4, 2471, consideration 5, 1942, consideration 6, and 732, consideration 3), and that it is the complainant who bears the burden of proof in this respect (see Judgments 4158, consideration 4, 4157, consideration 7, and 4156, consideration 5)."

The general principle that "an international organisation is liable for all the injuries caused to a staff member by their supervisor [...] when the victim is subjected to treatment that is an affront to his or her personal and professional dignity", asserted in Judgment 2706, consideration 5, and reiterated in the aforementioned Judgment 4207, applies all the more with regard to the measures to be considered by the executive head in a harassment situation (see also, on this subject, Judgments 4217, consideration 9, and 4171, consideration 11).

Lastly, in Judgment 4299, consideration 5, the Tribunal recalled the following in a case where a staff member alleged to have been harassed and requested compensation:

"It is true that a staff member who has, in the latter situation just discussed, established she or he has been harassed may also be entitled to an award of moral damages by the organization for the harassment (see, for example, Judgment 4158, consideration 3). Whether there is such an entitlement may depend on the terms of the regime in place within the organization to deal with harassment grievances. It is certainly something

> that can be awarded in proceedings in the Tribunal (see Judgment 4241, considerations 24 and 25). However, what is important is that, even if moral damages might be awarded, that is a subsidiary remedy or relief available in cases of this type when harassment is established. As just discussed, the primary obligation of the organization if harassment is proved is to protect the complainant and prevent further harassment."

In a situation similar to that of the complainant in the present case, the Tribunal's case law recognizes that it is the responsibility of the organization that establishes the existence of harassment to redress the injury caused and that, ordinarily, this redress should take the form of monetary compensation for the injury suffered (see, on this subject, Judgment 4158, consideration 3).

12. It follows from the foregoing that this claim is well founded and that, in the absence of measures to compensate the complainant's moral injury caused by the harassment established in the investigation report, the impugned decision of 12 November 2020 must be set aside, without there being any need to rule on the other pleas.

13. In the circumstances, the Tribunal should normally refer the matter to the Director-General in order for him to determine the redress that it would be appropriate to contemplate as compensation for the injury suffered by the complainant as a result of the harassment established. However, in view of the time that has elapsed and the fact that there is sufficient evidence and information in the file to enable the Tribunal to reach a decision on the nature of this redress and to properly assess the amount of compensation for moral injury claimed by the complainant, it would be inappropriate to do so in this case (see, for example, Judgments 4663, consideration 17, 4602, consideration 18, and 4471, consideration 20).

14. While it is true that redress for injury suffered by the victim of harassment may, in certain cases, take forms other than monetary compensation, the Tribunal considers that the measure required in this case, in the light of the findings of the investigation report, could scarcely take any form other than the payment of a sum of money. That is especially true given the finding that this harassment was based not

merely on two specific acts, but also on the "cumulative effect of the incidents" over a period of several months, and that there was no doubt that the complainant had suffered moral injury as a result.

In the present case, the Organization recognized that it was established that Mr N. had committed acts of harassment against the complainant and had created, by his behaviour, a hostile working environment for her. Suffice it to recall in this regard that the Director of the Official Meetings, Documents and Relations Department confirmed the disparaging attitude of Mr N. towards the complainant during the period covered by the grievance, citing his behaviour which "ranged from disdain to obstruction and disrespect"[*] towards her. Furthermore, the DDG/MR, in a letter of 26 July 2021 sent to the International Association of Conference Interpreters (AIIC), stated the following, which illustrates well the Organization's knowledge of the injury suffered by the complainant:

> "Our colleague's allegation that she was subject to disrespectful and harsh treatment amounting to harassment by a former colleague, also member of AIIC, was substantiated. In addition, although the anonymous nature of the letters sent to the ILO in June 2018 from, allegedly, 'a group of AIIC interpreters' made it impossible to identify the authors, we concluded that the letters were malicious. These letters, together with the conduct of our former staff member, have had a serious impact on our colleague's health and wellbeing, which is a source of great regret to the Office, which maintains the highest regard for her professionalism and competence. We are also deeply concerned by her preoccupation that these events may have caused harm to her professional reputation amongst the wider community of interpreters in Geneva: any such harm would be completely unjustified and extremely unfair."

15. As to the amount of the financial compensation claimed by the complainant, which she estimates at 75,000 Swiss francs under all heads, the Tribunal first observes that, as stated above, it is clear from the submissions that she did have a right to redress for the harassment suffered and the resultant injury. In accordance with its established case law, such redress generally takes the form of the payment of monetary compensation (see the case law cited in consideration 11, above).

[*] Registry's translation.

16. In her submissions, the complainant maintains that she suffered "moral, physical and psychological"* injury, as well as an affront to her dignity and reputation, as a result of the harassment reported, the lack of action taken subsequent to the investigation report and the excessive length of the entire proceedings.

17. The Tribunal considers that the complainant has duly established the moral injury she has suffered as a result of the harassment recognized in the investigation report. Since the main factor in the recognition of harassment is the perception that the person concerned may reasonably and objectively have of repeated acts or remarks liable to demean or humiliate them (see, for example, Judgment 4541, consideration 8), the complainant could legitimately, as she maintains, have felt demeaned by the actions of Mr N., and she could have felt that the latter was creating a hostile working environment in her regard, and thus have suffered substantial moral injury (see the aforementioned Judgment 4541, consideration 8).

Furthermore, in her submissions, the complainant provides a note from her treating physician attesting to a "long-term psychological suffering" resulting from the harassment and the ensuing investigation procedure, as well as the need for ongoing psychological support. The impact of the incidents on the complainant's image and professional reputation cannot be ignored, as the DDG/MR recognized in the above-mentioned letter of 26 July 2021, which he deemed necessary to send to the AIIC in view of the investigator's findings.

Lastly, the Tribunal has repeatedly recognized the right of a staff member to the payment of monetary compensation for the moral injury suffered as a result of harassment and the resultant affront to her or his dignity (see, for example, Judgments 4663, considerations 17 and 20, 4241, considerations 24 and 25, 4217, consideration 9, and 3995, consideration 9).

* Registry's translation.

18. The complainant further alleges that she also suffered moral injury on account of the excessive length of the proceedings that led to the investigation report and the impugned decision.

However, the Tribunal considers that, although it is regrettable that the time limits prescribed by Article 13.4 of the Staff Regulations were not respected, the duration of the proceedings was not inordinately long in the specific circumstances of the case.

19. In light of all of the foregoing considerations, the Tribunal finds that the moral injury caused to the complainant will be fairly redressed by awarding her moral damages in the amount of 40,000 euros.

20. As she succeeds, the complainant is entitled to costs, which the Tribunal sets at 1,000 euros.

DECISION

For the above reasons,

1. The Director-General's decision of 12 November 2020 is set aside.
2. The Organization shall pay the complainant moral damages in the amount of 40,000 euros.
3. It shall also pay her 1,000 euros in costs.
4. All other claims are dismissed.

In witness of this judgment, adopted on 13 November 2023, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 31 January 2024 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLÉMENT GASCON

MIRKA DREGER