

**107th Session**

**Judgment No. 2839**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mrs K. J. L. against the World Health Organization (WHO) on 17 March 2008 and corrected on 24 April, WHO's reply of 8 August, the complainant's rejoinder dated 7 October 2008, the Organization's surrejoinder of 20 January 2009, the complainant's further submissions of 21 March and the Organization's final comments of 16 April 2009;

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

Having examined the written submissions and disallowed the complainant's application for hearings;

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

A. The complainant, a former staff member of WHO, is a Danish national born in 1958. She joined the Organization's Regional Office for Europe (EURO) in Copenhagen on 1 September 2003 as a Human Resource Officer at grade P.3 in the Division of Administration and Finance. On 1 July 2005 her appointment was extended until 31 August 2007. With effect from 1 June 2004, she also assumed the duties of Acting Human Resource Manager – a post at grade P.4/P.5 –

pending completion of the selection process for that post. She initially applied for the vacant post but subsequently decided to withdraw her candidature.

Following the announcement in February 2005 of the complainant's forthcoming marriage to the then Director of her division, the EURO Staff Association reported to the Regional Director on 7 March and 21 April that concerns had been expressed across the Office about potential conflicts of interest arising from that marriage and in particular about the credibility of the future Human Resource Manager acting as supervisor to the spouse of his/her own first-level supervisor. It requested that measures be put in place to address the situation. Prior to the Staff Association's communication of 21 April, the Director of the Office of Internal Oversight Services travelled to Copenhagen to meet the Director of the Division of Administration and Finance on 5 April for the purpose of establishing the credibility of those reports and determining whether there was any indication of wrongdoing requiring investigation.

In response to a request for advice from the Regional Director, the Director of WHO's Human Resources Services summarised the Organization's position on the issue of spouse employment in a memorandum dated 14 April 2005. Referring to Staff Rules 410.3.2.1 and 410.3.3, which at the material time respectively provided that "[a staff member who is related to another staff member] shall not be assigned to serve in a position in the same unit, or to a position that is superior or subordinate in the line of authority to the position occupied by the staff member to whom he or she is related", and that "[t]he marriage of one staff member to another shall not affect the contractual status of either spouse [...]]", he recommended that an alternative second-level supervisor be identified for the complainant and that every effort be made to find a suitable reassignment to another post. Around the same time, the Regional Director engaged a consultant – a former WHO staff member – to review the Organization's rules and policies on the issue and to advise him on the status of the line of authority in the Division of Administration and Finance. In the course of his review the consultant held discussions

with over 40 staff members of EURO. In his report of 20 May 2005 he noted that specific allegations that had been raised against the complainant had not been corroborated and he proposed three possible courses of action: first, that the complainant be reassigned to the post of Administrative Officer in the Division of Country Support – this he considered to be the best solution; second, that the Office take immediate action to appoint a Human Resource Manager and allow the complainant to revert to her position as Human Resource Officer with a new second-level supervisor; and, third, that both the complainant and the Director of Administration and Finance be reassigned.

On 18 August 2005 the Staff Committee decided to postpone its participation in staff management meetings until there was clarity about measures put in place with regard to Staff Rule 410.3.2.1 to address potential conflicts of interest arising from the marriage between the complainant and the Director of Administration and Finance. Soon after, the complainant was presented with the Terms of Reference for the position of Human Resource Officer in the Division of Country Support and was invited to provide her comments, which she did in a memorandum of 25 August. On 31 August the Director of the Division of Country Support met her to discuss the Terms of Reference. By letter of 5 September the Regional Director informed the complainant that he had decided to transfer her to the aforementioned position with effect from 19 September 2005. He pointed out that her transfer would further strengthen the Office's capacity in effectively serving the Organization's Member States in line with its Europe Country Strategy.

On 14 September 2005 the complainant went on sick leave; she was subsequently diagnosed as suffering from stress disorder. By e-mail of 15 September she informed the Regional Director of her decision to resign. She added that she would provide him with a formal memorandum elaborating on her decision as soon as she returned from sick leave. The Regional Director accepted her resignation by memorandum of 19 September. On 24 October, while still on sick leave, the complainant wrote to the Regional Director, stating the reasons for her resignation. She explained that the decision to remove her from her position and to assign her to a lower-grade

function, and the fact that EURO had failed to safeguard her professional reputation, had created a “destructive environment” from which she was forced to withdraw. The Regional Director replied by letter of 3 November 2005 that her reassignment was intended to ensure that the requirements of Staff Rule 410.3.2 were respected and that it had nothing to do with her professional competence or integrity. In accordance with Staff Rule 1010.1, the complainant’s resignation was due to take effect on 15 December 2005. However, as she was found physically unfit at that time, her separation was deferred and her appointment was extended in line with Manual paragraph II.9.570.4. Her sick leave ended on 31 December 2006 and she was separated from service on 1 January 2007.

Meanwhile, with effect from 30 June 2005, the Office temporarily appointed Mr A. as Special Human Resource Adviser at grade P.5 and effective 1 July it discontinued the payment to the complainant of the extra pay she had received for performing the duties of Acting Human Resource Manager. On 12 October 2005 the Regional Director informed staff that a new Human Resource Manager would be joining EURO and that in the interim Mr A. would assume the duties of that post. On 18 October WHO issued a vacancy notice for the post of Human Resource Officer at grade P.3 in the Division of Administration and Finance in EURO.

On 2 November 2005 the complainant gave notice of her intention to appeal. She submitted her statement of appeal on 11 November, seeking the quashing of the decision to remove her from her position as Human Resource Officer in Administration and Finance, reinstatement in that position or assignment to another mutually acceptable position, payment of extra pay for the full period during which she was Acting Human Resource Manager, action by WHO to restore her professional reputation and damages. She requested and was granted a waiver of the proceedings before the Regional Board of Appeal and in December 2005 her appeal was forwarded to the Headquarters Board of Appeal. In early 2006, the complainant requested that her illness be considered as service incurred.

The Headquarters Board of Appeal completed its report on 27 March 2007. It found that the decision to reassign the complainant was a final decision and that, therefore, the appeal was receivable. It also took note of the generally negative atmosphere and unhealthy climate surrounding the case as well as of the “apparent good intentions” of the regional administration to find solutions to the potential conflict. It concluded that the Regional Director had “tried his best to find a solution” and that the complainant “could have participated in further discussions to shape the new functions and grade of her new post but instead opted to resign from the Organization”. It recommended that the decision to reassign the complainant be maintained, that she be paid extra pay until 19 September 2005 and that a conciliatory statement attesting to her performance and integrity be sent to all concerned parties. It also recommended that her request for her illness to be considered as service incurred was not within its purview and was thus to be reviewed by the Advisory Committee on Compensation Claims.

By a letter dated 7 December 2007 the Director-General informed the complainant that, notwithstanding her reservations with respect to the receivability of the appeal, she had decided to endorse the Board’s recommendations concerning her reassignment and the payment of extra pay from 1 July to 19 September 2005. With regard to the recommendation that a conciliatory statement be issued, she considered that the Regional Director’s letter of 3 November 2005 had provided sufficient assurances as to the complainant’s professional competence and integrity and that no further action was warranted in that respect. That is the impugned decision.

B. The complainant asserts that her internal appeal was fully receivable and that by expressing reservations concerning its receivability the Director-General acted contrary to Staff Rule 1230.8.1.

On the merits she submits that the impugned decision is flawed because it is inadequately reasoned and also because it is based on recommendations that are tainted with errors of fact and of law, incomplete consideration of facts, breach of due process and bias. The Headquarters Board of Appeal ignored her allegations of harassment

and failed to refer them to the Grievance Panel, in violation of Cluster Note 2001/13. Her request to the Board not to take into consideration three highly defamatory and unfounded witness statements submitted by WHO in the course of the internal appeal was equally ignored. The Administration obstructed the internal appeal process by submitting false statements, disregarding prescribed time limits and resorting to delaying tactics. She was led to believe that the proceedings before the Board were suspended pending the decision of the Advisory Committee on Compensation Claims on her request for recognition of her illness as service incurred, when in reality the Board's report was finalised while discussions about that suspension were ongoing. In effect, the independence and objectivity of both bodies were seriously compromised. Furthermore, the Board's assessment that she "opted to resign" completely ignored the medical evidence confirming that she had just suffered a major nervous breakdown and was thus in a condition of confusion and deep depression. In fact, her "offer to resign" was an act of despair which was not made of her own free will; the Regional Director's acceptance of it was therefore unlawful.

The complainant asserts that the decision to remove her from her core position as Human Resource Officer in Administration and Finance and to reassign her to a "non-existing meaningless function" was a hidden disciplinary sanction, imposed after two secret investigations in which she was denied the right to defend herself. She was not consulted prior to the Regional Director's final decision and neither was she adequately informed about the reasons for her removal. The Administration offered four different explanations in an attempt to conceal its real intention, which was to punish and demote her. The decision to remove her from her position with immediate effect was not in the interest of the Organization, as it left Human Resource Services without a supervisor, and it contravened Staff Rule 410.3.3 because it entailed a significant change in her work, her contractual status and her career orientation. Furthermore, Staff Rule 410.3.2.1 does not apply to serving staff members, while Staff Rule 410.3.2.2 provides sufficient safeguards in cases where a conflict of interest may arise.

The complainant claims to have suffered a retaliation and harassment campaign, which was initiated by the President of the Staff Association and her entourage, and subsequently facilitated and encouraged by the Regional Director. Rather than ordering a thorough investigation into the allegations made against her, the Administration forced her out of the Organization, thereby failing in its duty to protect her and to respect her dignity. In the complainant's opinion, it was unlawful for WHO to end her sick leave on 31 December 2006, contrary to the recommendation made by her physician, and it was equally unlawful to terminate her appointment without ensuring that she undergo the medical examination required under Staff Rule 1085. She argues that she was entitled to extra pay pursuant to Staff Rule 320.5 for assuming the responsibilities of Acting Human Resource Manager until 12 October 2005, when Mr A. formally assumed the duties of that post. She accuses the Organization of concealing and withholding documents of fundamental interest to her.

The complainant requests that the impugned decision be quashed and that she be reinstated in her position as Human Resource Officer at grade P.3 in the Division of Administration and Finance. She also requests that her appointment be extended at least until she has been declared physically fit following a medical examination in accordance with Staff Rule 1085. She asks to be provided inter alia with copies of the consultant's report, of the reports that triggered the investigation by the Director of the Office of Internal Oversight Services, of all accusatory documents the Organization has in its possession and of her personal file with pages numbered. She also asks WHO to order an investigation into the allegations made against her, to sanction the instigators of these allegations and to confirm that she was not found responsible for any "wrongdoing" and that no report was prepared by the Director of the Office of Internal Oversight Services. She claims compensation for the loss of salary and related benefits since the "illegal termination" of her appointment on 31 December 2006, for the financial loss due to her "family's forced move out of Denmark", for the Administration's obstruction of the internal appeal process and for the moral and physical suffering caused by its failure to protect her. She also claims costs.

C. In its reply WHO submits that the reservations expressed by the Director-General concerning the receivability of the internal appeal were based on the fact that the complainant's reassignment never actually occurred, as she resigned prior to the date on which the Regional Director's decision to reassign her was due to take effect.

On the merits it refutes the complainant's allegation that she was removed from her post, asserting that the decision to reassign her was taken in proper exercise of its discretionary authority and that it was in conformity with Staff Regulation 1.1 and Staff Rules 510.1 and 565.2, which authorise the Director-General to assign or reassign any staff member to any activity or office in the interest of the Organization. Furthermore, the decision was taken in good faith with a view to addressing staff members' concerns about potential conflicts of interest – which were warranted in light of the key positions both the complainant and the Director of Administration and Finance held in the personnel area – and also with a view to ensuring compliance with Staff Rule 410.3.2.1, given that they worked in the same line of authority, the said director being the complainant's second-level supervisor in her capacity as Human Resource Officer and her first-level supervisor in her capacity as Acting Human Resource Manager.

The Organization denies that the decision to reassign the complainant was not in the interest of the Organization, that it was inadequately reasoned or that it was a hidden disciplinary sanction. The function identified in the Division of Country Support responded to the need to strengthen the Office's capacity in implementing its Europe Country Strategy. The importance of that work was explained to the complainant, as was the need to address the situation that had arisen in the Division of Administration and Finance. Thus, at no point was the complainant provided with contradictory explanations for her reassignment. Moreover, Human Resource Services was not left without a supervisor, given that Mr A. was recruited to perform the duties of Acting Human Resource Manager. WHO also denies that the complainant's reassignment was to a "non-existing meaningless function" or that it amounted to a demotion. The complainant was to move with her post and her terms of appointment were to remain

unchanged in line with Staff Rule 410.3.3. According to the defendant, the complainant was duly consulted before any decision was made to reassign her and her comments were taken into account.

WHO rejects the complainant's assertions concerning the proceedings before the Headquarters Board of Appeal. It also rejects her allegation that it failed to protect her against a retaliation and harassment campaign. It states that no such campaign ever took place and it denies that any secret investigation was carried out. It contests that the complainant's judgement was impaired when she resigned and that therefore her resignation cannot be considered valid. It adds that her claim for additional payment of extra pay for assuming the duties of Acting Human Resource Manager, and also her claims with regard to the expiration of her sick leave and the medical examination required under Staff Rule 1085, are both irreceivable and unfounded.

D. In her rejoinder the complainant presses her pleas. She states that what she contests is not the Director-General's prerogative to reassign staff but the manner in which she was forcefully removed from her position. She accuses the Organization of libel and retaliation for having lodged an internal appeal. Relying in part on a statement submitted by a former EURO Regional Staff Physician, she contends that defamation and bullying with the management's encouragement were frequent phenomena in EURO. She claims additional compensation for the severe damage inflicted by the Organization upon her career.

E. In its surrejoinder the Organization maintains its position in full. It submits that the complainant's portrayal of events as a campaign against her is incorrect and unfounded. It refutes her assertion that a hostile work environment prevailed in EURO and argues that the former Staff Physician's statement, upon which she relies, fails to corroborate her allegation of harassment.

F. In her further submissions the complainant accuses WHO of having falsified several documents submitted in support of its surrejoinder for the purpose of portraying her as being in full

possession of her mental faculties at the time she submitted her offer to resign. She asks the Tribunal to order an investigation into the matter and to declare all falsified documents inadmissible.

G. In its final comments WHO rejects the complainant's allegations of document falsification as unfounded and asserts that the documents produced in support of its surrejoinder are authentic.

## CONSIDERATIONS

1. The complainant impugns the Director-General's decision of 7 December 2007 rejecting her appeal against the decision to reassign her to the post of Human Resource Officer in the Division of Country Support. In her submissions to the Tribunal she has raised a large number of issues in relation to her claims which are set forth under B, above. She has in particular given numerous and detailed examples of what she considers to be a campaign of harassment against her, which resulted in her having "a severe nervous breakdown". She claims that some officials created a tense and unpleasant atmosphere in the office and that there was growing hostility towards her culminating in her "illegal" transfer. She alleges that this led her "in a gesture of total desperation" to resign from the Organization.

2. The Organization challenges a number of the claims on the grounds of receivability. It maintains, in particular, that the claims in relation to a service-incurred illness, the complainant's separation date, the exit medical examination and the interruption of the complainant's sick leave as well as the allegations against the Director of Health and Medical Services are all irreceivable. The Organization does not advance specific arguments in relation to each of these claims. Instead, it broadly submits that they fall outside the scope of the complaint, that they largely involve events that are alleged to have occurred after the appeal or matters in respect of which no final decision has been taken, and that the complainant is out of time or did not exhaust internal means of redress.

3. While the complainant has referred to these matters in her submissions, with the exception of the allegations concerning the interruption of her sick leave and the exit medical examination, she has not done so for the purpose of advancing a claim, but instead to provide a context for her other allegations. However, the claims relating to the sick leave and the exit medical examination are the subject of a separate complaint and are irreceivable in this complaint.

4. As the complainant raises a question that touches on the soundness of the internal appeal process, it is useful to consider this aspect of the complaint first. Citing Cluster Note 2001/13, the complainant submits that the Headquarters Board of Appeal was obliged to refer those elements of her appeal relating to harassment to the Grievance Panel and to hold the appeal in abeyance pending receipt of the Panel's report. The complainant maintains that the failure to respect this obligation constitutes a lack of due process and undermines the Director-General's decision.

5. The Organization points out that the complainant failed to file a formal complaint of harassment with the Grievance Panel within the 90-day time limit set out in paragraph 2.1 of Information Note 36/2004 on the Formal Process for Harassment Allegations. It observes that although the word "harassment" appears a few times in her statement of appeal to the Headquarters Board of Appeal, the complainant did not make any precise allegation nor did she identify an alleged harasser. Furthermore, to the extent that the term "harassment" was cited from medical reports, these were matters within the purview of the Advisory Committee on Compensation Claims.

6. Further, the Organization takes the position that the provisions concerning the referral of harassment allegations by the Board to the Grievance Panel cannot be interpreted to include the occasional use of the word "harassment" in a lengthy statement of appeal dealing with other grounds of appeal. In the Organization's

view, any referral to the Grievance Panel must be “on the basis of clear and substantiated allegations identifying alleged harassers”.

It also points out that the complainant could have raised with the Board her concern that the harassment allegations should have been referred to the Grievance Panel but she chose not to do so until after the outcome of her appeal. To the extent that her appeal permitted her to uncover other alleged harassers, she has no basis upon which to criticise the Board for its failure to refer those allegations.

7. The Tribunal rejects the Organization’s argument that the complainant should have pursued her harassment allegations by filing a formal complaint with the Grievance Panel. The Organization established the Grievance Panel to examine and make recommendations regarding formal complaints of harassment. It is clear from a reading of Information Note 36/2004 and Cluster Note 2001/13 that the Organization recognised that a harassment complaint could arise within the context of an appeal against an administrative decision or as a stand-alone complaint, and established separate mechanisms to have such complaints examined by the Grievance Panel.

8. The Tribunal also rejects the Organization’s assertion that there was an insufficient basis for a referral to the Grievance Panel. Paragraph 3.2(a) of Cluster Note 2001/13 relevantly provides:

“When the Headquarters Board of Appeal receives an appeal that includes an allegation of harassment, the Board shall refer this aspect of the appeal to the Grievance Panel. The Board shall hold the appeal in abeyance pending receipt of a report and the recommendation of the Grievance Panel. Holding such an appeal in abeyance may require an extension of the time-limit for the reporting of the Board’s findings under Staff Rule 1230.3.3.”

9. In her statement of appeal of 11 November 2005 the complainant specifically referred to and detailed the conduct that she alleged constituted a breach of the Organization’s policy on harassment.

Upon receipt of these allegations of harassment, the Headquarters Board of Appeal was obliged to refer that aspect of the appeal to the Grievance Panel. The fact that the complainant did not take issue with the Board's failure to make the referral until sometime later, did not absolve the latter of its obligation to make the referral and to hold the appeal in abeyance.

The failure to make the mandatory referral constitutes an error of law for which the complainant is entitled to an award of moral damages. As the Director-General's decision was based on a fundamentally flawed process involving an error of law, it must be set aside. In these circumstances it is not necessary to consider the additional matters the complainant raised in relation to the proceedings before the Board as they would not add to the relief to be granted.

10. Having regard to the nature and complexity of the allegations, the fact that information relevant to the allegations emerged over a lengthy period of time, and also the fact that as the complainant's allegations have never been properly investigated and assessed, some of the alleged perpetrators have never had an opportunity to reply, this is not an appropriate case for the Tribunal to make an assessment on the harassment allegations. However, the allegations were raised by the complainant in her internal appeal and she is entitled to have them considered by the Grievance Panel if she so wishes.

11. The decision must also be set aside for other reasons. It is clear that in accordance with Staff Regulation 1.1 staff members are subject to the authority of the Director-General and to assignment by him or her to any of the activities or offices of the Organization. Further, under Staff Rule 565.2 a staff member may be reassigned at any time in the interest of the Organization. However, in the exercise of the discretion to reassign a staff member, the Organization must take into account the interests and dignity of the staff member, including the provision of work of the same level as that which was performed in the former post and matching the staff member's qualifications, and care

must be taken not to cause undue injury to the staff member (see Judgments 2067, under 17, 2191, under 3, and 2229, under 3). Moreover, the staff member is entitled to be informed of the reasons for the reassignment. In addition to ensuring transparency in decision making, providing the reasons for the reassignment permits a staff member to assess the courses of action that may be taken, including the lodging of an appeal, and it also permits a review of the lawfulness of the decision on appeal (see Judgment 1757, under 5).

12. Turning to this latter point first, in the present case, the complainant was informed by letter of 5 September 2005 that the reassignment decision was motivated by the Organization's intention to strengthen further its capacity to serve effectively its Member States in line with its Europe Country Strategy. However, on 3 November 2005 the Regional Director, in a letter he characterised as being for the purpose of "set[ting] the records straight" in order to avoid any misunderstanding on the part of the complainant, stated that her reassignment was intended "to ensure that the requirements of Staff Rule 410.3.2 were respected". He also stated that in response to the formal complaint he had received from the EURO Staff Association on 21 April 2005 concerning the potential conflict of interest arising from her marriage to the Director of Administration and Finance, he had engaged a consultant to advise him on the matter. He added that the consultant's report was based on a review of the situation in the Regional Office and extensive consultation with the Legal Counsel, the Director of Human Resources Services and the Director of the Office of Internal Oversight Services.

13. Throughout its pleadings the Organization seeks to justify the reassignment decision on the basis of the need to comply with Staff Rule 410.3.2. At the material time the relevant part of Staff Rule 410.3.2 provided:

"410.3.2 A staff member who is related to another staff member as specified under Rules 410.3 and 410.3.1:

410.3.2.1 shall not be assigned to serve in a position in the same unit, or to a position that is superior or subordinate in the line of authority to the position occupied by the staff member to whom he or she is related.”

14. Following the complainant’s announcement of her forthcoming marriage to the Director of Administration and Finance and faced with the concerns raised by the Staff Association, as set out earlier, the Regional Director sought the advice of the Director of Human Resources Services regarding spouse employment, and in particular the impact of the marriage of one staff member to another when serving in the same duty station. He also commissioned a consultant to review WHO’s rules and policies on the issue and to advise him on the status of the line of authority in the Division of Administration and Finance.

It emerges from these two reports that there was no policy in place regarding the marriage of two staff members. Further, it was acknowledged in the consultant’s report that based on a strict interpretation of Staff Rule 410.3.2, it could be argued that the two staff members were working in the same division but not the same unit. As well, once the post of Human Resource Manager was filled they would not be in a direct hierarchical position because the complainant’s first-level supervisor would no longer be the Director of Administration and Finance.

15. While a decision to reassign a staff member may be based on multiple factors, it is evident from the letter of 3 November 2005 that “capacity strengthening” was not the real reason for the reassignment. Additionally, given that the complainant and the Director of Administration and Finance were not in the same unit and that they would not be in a direct hierarchical position with the appointment of the new Human Resource Manager, the Regional Director’s reliance on compliance with Staff Rule 410.3.2 to justify the reassignment is an error of law. Further, misinforming the complainant of the reason for the reassignment reflects a disregard for her dignity.

16. The Tribunal also observes that the approach adopted by the Organization to address the implications of the marriage of the two staff members was taken without due regard to the interests and dignity of the complainant. In making these observations, it is important to note that they should not be construed in any way as findings in relation to the harassment allegations.

17. Upon being informed of the complainant's forthcoming marriage to the Director of her division, it was entirely proper for the Organization to consider whether the Staff Regulations and Staff Rules or its policy were engaged. It was equally proper to obtain advice on these matters. However, there was no need to canvas the views of some 40 staff members. This personalised what was otherwise a regulatory or policy matter for the Organization to resolve. It provided a forum for staff members to express their personal views regarding the impact of the marriage and thereby to level unsubstantiated allegations against the complainant. While properly structured consultations with staff through their association on matters of policy and regulations is appropriate, the canvassing of individual staff members in these circumstances was highly inappropriate and their individual views were irrelevant. To make matters worse, unsubstantiated and irrelevant allegations were included in the consultant's report and communicated to senior officials.

18. Having said this, the Tribunal wishes to stress that there is no indication that the consultant's approach to the study he had been commissioned to do was in any way motivated by malice or ill will on his part. The fact remains, however, that it was an affront to the complainant's dignity and that it placed her in a most difficult situation in an already unhealthy work environment.

19. Further, it cannot be said that the Organization engaged in any meaningful consultation with the complainant regarding her reassignment. Providing her with Terms of Reference for a post that she did not know was intended for her, arranging for a meeting with her proposed new Director without being informed of her planned

transfer, and a meeting with the Regional Director when the decision had already been taken does not constitute proper consultation.

20. Lastly, the Tribunal observes that despite the advice that was provided that the Organization should assist the complainant in finding a post and that up to one year should be given to achieve this end, the complainant was given no opportunity to consider the reassignment, nor was she afforded an opportunity to identify other possible assignments.

21. The Tribunal concludes that throughout the process leading up to the reassignment decision the Organization failed to show due respect for the complainant's dignity.

22. Taking into account the above considerations, the complainant is entitled to moral damages in the amount of 30,000 euros. She is also entitled to costs in the amount of 2,000 euros.

23. For the reasons set out above, the Tribunal will not deal with the issue of harassment at this juncture. This issue remains open for the complainant to pursue through the Grievance Panel if she so wishes. In the light of this outcome, there is no need to consider the complainant's allegations concerning the falsification of documents.

24. Having regard to the time that elapsed between the date of acceptance of her resignation and the effective date of separation from service, this is not an appropriate case for reinstatement. For the same reason, it is unnecessary to consider her argument based on "illegal" acceptance of her resignation.

## DECISION

For the above reasons,

1. The Director-General's decision of 7 December 2007 is set aside as is the Regional Director's decision of 5 September 2005.
2. WHO shall pay the complainant moral damages in the amount of 30,000 euros.
3. If requested by the complainant, the Director-General shall refer the allegations of harassment to the Grievance Panel in accordance with consideration 10.
4. WHO shall pay the complainant costs in the amount of 2,000 euros.
5. Without prejudice to the complainant's right to pursue claims with respect to service-incurred illness, to her separation date, to the exit medical examination and to the interruption of her sick leave, all other claims are dismissed.

In witness of this judgment, adopted on 14 May 2009, Mr Seydou Ba, President of the Tribunal, Ms Mary G. Gaudron, Vice-President, and Ms Dolores M. Hansen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 8 July 2009.

Seydou Ba  
Mary G. Gaudron  
Dolores M. Hansen  
Catherine Comtet