P.

v.

EPO

121st Session **Judgment No. 3619**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms R.-F. P. against the European Patent Organisation (EPO) on 13 March 2013 and corrected on 26 April, the EPO's reply of 8 August, the complainant's rejoinder of 6 September and the EPO's surrejoinder of 16 December 2013;

Considering Articles II, paragraph 5, 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 contests the rejection of her internal appeal against the decision not to convert her fixed-term contract into a permanent contract and the decision not to select her for a vacant permanent post.

The complainant was recruited by the EPO in December 2005 by way of a competition. She was offered a fixed-term contract for two years and one month as a lawyer in Directorate-General 5 (DG5) in The Hague. This contract, which was governed by the Conditions of Employment for Contract Staff at the European Patent Office (CECS), was subsequently extended twice until 31 December 2008. Having participated successfully in another competition, the complainant was then granted a three-year fixed-term contract as a lawyer in the

Employment Law Directorate (Directorate 5.3.2) in Munich. This contract, which was also governed by the CECS, took effect on 1 January 2009.

Pursuant to Article 2(3) of the CECS, fixed-term contracts may be concluded for a maximum term of five years, with a possible extension of up to two years in exceptional cases. Article 15a of the CECS provides that where the duties performed under a fixed-term contract have become permanent in nature, the contract holder may become eligible for appointment to a corresponding permanent post, subject to certain conditions.

In July 2011 a permanent post for a lawyer in Directorate 5.3.2 was advertised through vacancy notice INT/EXT/5131. The complainant, who by this time had been serving under a fixed-term contract for more than five years, applied for this vacancy in early September. By a letter of 30 September 2011 she was informed that, in view of the provisions of Article 15a(2) of the CECS, and particularly subparagraph (c) thereof, the EPO was not able to offer her a permanent contract and that, accordingly, should she not be selected for vacancy INT/EXT/5131, her employment with the EPO would end upon the expiry of her contract on 31 December 2011.

On 2 November the complainant was verbally notified of the decision not to select her for the vacant permanent post. This decision was confirmed in writing by a letter of 11 November 2011. On 16 December 2011 she wrote to the President of the Office, contesting the decisions of 30 September and 11 November 2011 and requesting that her fixed-term contract be converted into a permanent employment contract. She sought moral damages and costs and asked that her letter be considered an internal appeal in the event that her requests were not granted. She argued that she fulfilled all the conditions of eligibility for conversion of her contract and that her reporting officer and Principal Director at the time had in fact promised her a permanent appointment in her staff report for the period 2008-2009.

The complainant separated from service on 31 December 2011. On 16 February 2012 she was informed that the President could not grant her requests and that he had therefore referred the matter to the

Internal Appeals Committee (IAC) for an opinion. Having held a hearing, the IAC submitted its opinion on 29 October 2012. It recommended that the complainant's contract be converted into a permanent employment contract, that the outcome of competition INT/EXT/5131 be cancelled, that a new selection procedure be held and that the complainant be allowed to participate in that procedure as an internal candidate. It also recommended that she be awarded 5,000 euros in moral damages for the EPO's failure to deliver on the promise made to her in 2010, a further 5,000 euros for the flawed selection procedure and 1,000 euros for the time and cost she had invested in the internal appeal process.

By a letter of 20 December 2012, the Vice-President of Directorate-General 4 (DG4) informed the complainant of his decision not to follow the recommendations of the IAC and to thus reject her appeal. That is the impugned decision.

By way of relief, the complainant requests that she be granted a permanent post with the EPO, that the decision not to convert her contract into a permanent contract be annulled and that the selection procedure for vacancy INT/EXT/5131 be cancelled, including the decision to open a competition and not to grant her the relevant permanent post. She also seeks moral damages and costs.

The EPO requests the Tribunal to reject the complaint as irreceivable in part and unfounded in its entirety.

CONSIDERATIONS

1. The complainant, a lawyer, commenced employment with the EPO on a two-year contract starting 1 December 2005. This contract was renewed twice, for six months on each occasion. In 2008 the complainant, after successfully passing a competition, was offered a three-year contract commencing 1 January 2009 and concluding on 31 December 2011. She was then working in the Employment Law Directorate (Directorate 5.3.2). As described by the complainant in her brief, this contract was "in order to work for a so-called 'special MAC project' dealing with the internal appeals backlog" within the EPO.

2. During the currency of this three-year contract, the complainant's performance was evaluated on several occasions. One such evaluation was her staff report of 2008-2009. Of some significance in the complainant's case was a hand-written notation in the section of that report providing an overall rating of the complainant's performance. It was made by the reporting officer, Ms M., who was the Principal Director of 5.3 and read:

> "Having reached 5 years in the EPO at the end of 2010 and performing tasks which are of a permanent nature, [the complainant's] conversion to permanent staff was requested for the budget 2011."

The report was signed in April 2010 by Ms M. and countersigned by the Vice-President of DG5. The complainant characterises this as a promise (the "written 2010 promise").

3. In July 2011 a notice of competition was published for a permanent lawyer position (INT/EXT/5131) (the contested position) within the Directorate 5.3.2. She applied for the position but on 11 November 2011 she was advised that she had not been selected. She had earlier been told on 30 September 2011 that her contract would not be converted into a permanent contract and that should she not be selected for the position, her employment would conclude on 31 December 2011. On 16 December 2011 the complainant made a request under Article 106 of the Service Regulations for Permanent Employees of the European Patent Office that she be appointed as a permanent staff member. The complainant separated from the EPO on 31 December 2011. On 16 February 2012 she was informed that her request of 16 December 2011 had been refused. Accordingly, and as she had requested in the letter, her letter of 16 December 2011 was treated as an internal appeal to the IAC.

4. Her internal appeal was heard during 2012 and the IAC issued its opinion on 29 October 2012. It made six substantive recommendations, some unanimously and some by a majority. The first was that the appeal be allowed insofar as it sought the conversion of the complainant's contract into a permanent contract. The second was that the appointment to fill the contested position in Directorate 5.3.2

be cancelled. That recommendation was based on the IAC's conclusion that the selection process had been flawed. The third was that there be a new competition to fill the contested position, in which the complainant should be considered an internal candidate, the Selection Board should not be constituted by anyone who had been on the original Selection Board and the employee appointed as a result of the flawed competition should be shielded from injury. The fourth was that the complainant be awarded 5,000 euros in moral damages for the Office's failure to honour a promise made in 2010 that she would secure a permanent position. The fifth was that the complainant be awarded 5,000 euros in moral damages for the flaws in the competition process. The sixth and last was that the complainant be paid a sum of 1,000 euros for the expenses, time and trouble associated with the internal appeal.

5. In a letter of slightly over two pages dated 20 December 2012, the Vice-President of DG4 (delegated by the President) rejected each recommendation and rejected each claim the complainant had made in the internal appeal. The letter explained why, though there is an issue in these proceedings about the adequacy of the Vice-President's reasons. This is the impugned decision.

6. The first contention of the complainant is to the effect that she had been entitled to have her employment converted to permanent employment without competition because the EPO contravened the provisions of the CECS. In her brief the complainant argues that she had been employed under a succession of contracts for a period of six years and one month and this contravened Article 2 of the CECS which creates an upper limit of five years.

7. Apparently, in order to establish the terms of the CECS upon which she relies, the complainant appends to her brief a document constituting a proposal advanced by the President to the Administrative Council in February 2007 to amend the then applicable CECS. However, that document does not include all the terms of the CECS nor does it manifestly constitute the document which would have been

applicable at the time she signed the three-year contract (12 November 2008), which took her employment beyond what she contends is the upper limit of five years. In its reply the EPO appends two versions of the CECS. One is a version which came into effect on 19 June 2008 (the "2008 CECS") and another version adopted on 10 December 2009 (the "2009 CECS"), which were in force when the issue in this matter arose about conversion of the complainant's employment. The EPO's argument is that the complainant's rights and the EPO's obligations at the time her three-year contract was concluded (on 31 December 2011), were to be found in the version adopted on 10 December 2009 together with the provisions of the Service Regulations then in force.

8. It is convenient, at this point, to note the relief sought by the complainant. First, she seeks an order that the EPO grant her a permanent post. Allied to this is the second order she seeks, namely an order that the decision not to convert her contract to a permanent post be annulled. The third order she seeks is that the selection procedure to fill the contested position be cancelled "including the decision to open it and the decision not to grant [her] with the related permanent post following the selection procedure". The fourth order she seeks is "[m]oral [d]amages arising from all decisions requested to be annulled, including for injury to her dignity". The fifth order she seeks is expressed in general terms as "[f]urther relief in law and equity". The two remaining orders concern costs and the expedited hearing of her complaint. What is not expressly sought is any monetary relief by way of damages for any breach of Article 2 discussed in the next consideration.

9. The upper limit of five years relied upon by the complainant is found in Article 2 of both the 2008 CECS and the 2009 CECS, though the versions of the Article are different and the contracts to which the upper limit applies in the 2009 CECS are identified with some specificity. At the time the complainant's three-year contract was signed (12 November 2008), Article 2 of the 2008 CECS simply provided:

> "Contracts shall be concluded for a maximum term of five years. They may in exceptional cases be extended by a maximum of two years. […]"

Even accepting, for present purposes, that the signing of the three-year contract in November 2008 involved a violation of the terms of the 2008 CECS, it does not follow that at (or before) the time the contract concluded in December 2011, the EPO was obliged to convert the complainant's employment to permanent employment, which is the relief the complainant seeks in these proceedings.

10. Whatever may be the legal consequences of contravening Article 2, they do not include the creation of a legal right to conversion of a fixed-term contract to a permanent employment contract. That is because both the 2008 CECS and the 2009 CECS expressly address and identify the circumstances in which an employee on contract can be appointed as a permanent employee. Both versions of the CECS do so in Article 15a. The Tribunal does not accept an argument of the complainant that the relevant CECS were those which operated in 2005, when she first commenced employment with the EPO. Both versions (of 2008 and 2009) begin by declaring that a fixed-term contract does not confer any right either to an extension or to conversion into another type of employment. Thereafter, in the 2009 CECS a distinction is drawn between two types of contracts identified in Article 1. This distinction between types of contracts does not expressly govern the operation of Article 15a in the 2008 CECS. However, both versions contain a provision, Article 15a(2)(d) (in the 2008 CECS) or 15a(2)(c) (in the 2009 CECS), which is substantially to the same effect (though the language differs slightly), namely that for a contract staff member to be eligible for appointment to a corresponding vacant permanent post, there must be no other contract staff members who fulfil the requirements rendering those other contract staff eligible for appointment to the corresponding vacant permanent post. Article 7(3) of the Service Regulations makes express provision for the appointment of a contract staff member to a permanent position without competition and adopts the conditions "laid down in Article 15a" of the CECS.

11. The question of whether there were other contract staff in employment at the time the complainant claimed appointment to a permanent position and who would engage this last mentioned

qualifying provision was addressed by the IAC. The IAC unanimously concluded that there were two other contract staff members who satisfied the criterion in the relevant paragraph of Article 15a(2). An argument to the same effect is maintained by the EPO in these proceedings. The complainant does not confront, directly, the finding of the IAC and the argument of the EPO. Rather, she apparently seeks to argue that the limiting conditions in Article 15a that circumscribe the circumstances in which a contract employee might assume permanent employment should not have constrained the EPO taking into account her specific circumstances. Those circumstances included that her employment under contract exceeded five years, and also the written 2010 promise and a later oral promise which the complainant says was made and which was to the same effect. However, both the 2008 and the 2009 CECSs (and it is unnecessary to resolve which applied at the time the complainant sought appointment to a permanent position) are normative legal instruments that must operate in their terms. Accordingly, the fact that Article 2 may have been violated does not enable the complainant to assert a right which would have resulted in the conversion of her employment to permanent employment, when the same normative legal instrument identifies the circumstances in which such a conversion may take place. Accordingly, the complainant's arguments based on the violation of Article 2 of the CECS should be rejected. It is, therefore, unnecessary to address a related argument of the EPO concerning the repetition of the elements of Article 15a in the letter of offer leading to the signing of the three-year contract in November 2008 and the terms of the contract itself, namely that the contract was of fixed duration terminating on 31 December 2011 and that the EPO retained the "absolute right not to renew or extend the contract, nor to convert the contract in permanent employment".

12. This leads to a consideration of the complainant's second contention based on the written 2010 promise and a later oral promise. The oral promise was the repetition to the complainant by Ms M. of a statement said to have been made by the Vice-President of DG5 later in 2010 that "we will convert [the complainant] next year". The members of the IAC were divided in their opinion about the significance and

effect of the written 2010 promise. However all members rejected the case founded on the oral promise because the fact that it was made was disputed and in any event was founded on hearsay. The Tribunal agrees. The majority of the members of the IAC (three members) viewed the written 2010 promise as a promise to convert the complainant's contract even though, at the time it was made, it was a conditional promise. The minority (one member) thought that the written 2010 promise was vague and remained imprecise not only in relation to the request for the conversion itself but also the procedure by which it was to be achieved. It was, in substance, an indication that something would be requested. The minority then discussed the authority of the Vice-President of DG5 and Ms M. to make such a commitment and doubted they did have such authority. The minority also thought it was unrealistic for the complainant, as a lawyer, to proceed on the basis that the conditions for conversion identified in Article 15a(2) (discussed earlier and particularly given the fact that there were other contract staff members who could have filled the contested position) could be circumvented by the making of the promise. The minority opinion was adopted by the Vice-President of DG4 in the impugned decision and the substance of it advanced by the EPO in its pleas.

13. The Tribunal favours the approach of the minority, though it accepts that there is room for legitimate debate about what the comment meant and how it might have been understood by the complainant. But there is a fundamental difficulty with the complainant's case based on the written 2010 promise. It is not every statement made by or on behalf of an organisation that is capable of being characterised as a promise that gives rise to a legal obligation on the part of the organisation to honour the promise. Were that the applicable principle, it would almost certainly introduce an unacceptably high level of caution and constraint into the dialogue between senior officers of an organisation and staff members they manage. Open and frank discussion within an organisation is often a desirable part of good management and it can contribute to a positive culture of inclusiveness.

14. It is necessary to refer to the various elements of a promise that give rise to a legal liability to honour the promise. They were correctly identified by the IAC in its report though there was a singular failure on the part of the majority to address the third element. The first element is that there must be a promise to act or not act or to allow. The second element is that the promise must come from someone who is competent or deemed competent to make it. The third element is that the breach of the promise would cause injury to the person who relies on it. The fourth is that the position in law should not have altered between the date of the promise and the date on which fulfilment is due. The third element has two sub-elements. One is that the promisee has relied on the promise and the second is that this reliance has caused injury to the promisee in the event of non-fulfilment of the promise.

15. There are numerous decisions of the Tribunal applying these principles (see, for example, Judgments 3204, under 9, 3148, under 7, 3005, under 12, 2158, under 5, 2112, under 7, and 1278, under 12). However they have, as their foundation, the decision of the Tribunal in Judgment 782. It is instructive to review the facts of that case and how the principle containing the four elements, propounded by the Tribunal in that judgment, were satisfied so as to result in a legal obligation on the part of the defendant organisation to honour the promise or, as it turned out, to pay damages for its failure to do so.

16. Judgment 782 concerned a tradesman, a fitter, who took up employment with the European Molecular Biology Laboratory (EMBL) in 1977. He was then aged 38. The circumstances in which he took up that employment were as follows. The complainant had commenced working in 1965, at the age of 26, with a firm in the private sector under an appointment without limit of time. In 1976 the complainant's firm secured a contract to install sanitary equipment at the EMBL premises. The complainant was the overseer on this project. The following year, the Director of Administration of EMBL offered the complainant employment with EMBL, which he accepted. The Tribunal found that, as a matter of fact, the complainant had

accepted a temporary appointment with EMBL only on the condition that he would later be granted an indefinite one. One factor identified by the Tribunal in reaching this factual conclusion (which had been contested by EMBL) was that at the time the complainant took up employment with EMBL, he had been working for the firm he left for a dozen years and, being the good employee he was, he could look forward to staying on with the firm "for good", that is, for the remainder of his working life. This fact fortified the Tribunal making the finding that the promise was made because it was unlikely that the complainant would have given up a safe job for an unreliable one, even at a higher salary.

The complainant's contract with EMBL was renewed several times but in late 1985 the complaint was told that his current contract would not be renewed at its expiry in November 1986. Thus, after working for almost 10 years with EMBL, the complainant, then aged 47 or 48, was told that the promise made at the time of his initial employment would not be honoured. The Tribunal concluded that the complainant could rely on the promise of indefinite appointment. The complainant sought, by way of relief, indefinite appointment or damages equivalent to a loss of income he would have otherwise earned working for EMBL between the time his contract was not renewed and the age of 65. The loss of income was calculated by reference to what he would be able to earn in employment elsewhere and the salary he was being paid by EMBL. As it turned out, the Tribunal awarded damages by reference to loss of the higher income (working for EMBL) though in a sum (150,000 Deutschmark), which was less than the amount claimed by the complainant. Two things emerge from this judgment. The first is that the complainant relied on the promise in deciding to leave stable and secure employment at a comparatively young age to take up employment with the defendant organisation. The second is that the failure of the defendant organisation to honour the promise gave rise to real, demonstrable and significant financial injury to the complainant.

17. In the present case, there is nothing to suggest that the complainant relied on the written 2010 promise, even if it was a

promise. She simply continued to do what she had been engaged to do, namely perform the work required by the contract she entered in November 2008. Equally, there is nothing advanced by the complainant by way of evidence, to suggest that, even if she relied on the promise, she has sustained an injury. In Judgment 782, there was evidence (it appears undisputed evidence) accepted by the Tribunal that the complainant would suffer, for the remainder of his working life, a significant drop in income in working for someone other than the defendant organisation. No such evidence is advanced by the complainant in the present matter. More importantly, as a matter of principle, the mere failure to honour the promise does not, of itself, constitute injury of the type contemplated by the Tribunal in Judgment 782. At least in a case such as the present, the injury (ordinarily financial injury) must flow from and occur by reason of the failure of the defendant organisation to honour the promise made and relied upon. It is true that the complainant did not secure, at the age of about 36 or 37, permanent employment with the EPO that the Tribunal can assume was viewed by the complainant as a highly attractive outcome. Indeed, she identifies the injury as being that "she lost her job". But that is simply a description of the non-fulfilment of the promise, not injury. It cannot be assumed that in the absence of persuasive evidence, this fact alone resulted in any financial injury to the complainant at least in the longer term. The complainant's claim based on breach of promise should be rejected.

18. In her pleas, the complainant refers to a practice. It is not entirely clear whether this is advanced as an independent basis for the relief she seeks. In any event, her pleas do not provide a sufficiently firm evidentiary foundation establishing a practice which might have given rise to enforceable rights (see Judgment 2702, under 11).

19. The complainant's next contention concerns alleged procedural and substantive irregularities in the competition for the contested position. To support this contention before the IAC, the complainant put forward the following arguments. The first was that the EPO had erroneously published a single vacancy notice for both the permanent

position and other positions. The IAC concluded, unanimously, that the EPO was entitled to do this. The second was that the EPO had erred in failing to specify in the vacancy notice the kind of test that would be used and how it would be marked contrary to Article 2(1)(e) of Annex II to the Service Regulations. The IAC concluded, unanimously, that the EPO had not complied with this requirement. The third and fourth concerned the ultimate outcome of the competition. The third was that the EPO had, in assessing the appellant, taken into account irrelevant considerations and had overlooked essential facts. The IAC concluded, unanimously, that it had not. The fourth was a contention that the EPO had drawn manifestly erroneous conclusions from the facts. The IAC concluded, unanimously, that manifestly erroneous conclusions had been drawn. In the result, the IAC recommended the cancellation of the appointment to the contested position and that a new competition be held to fill the contested position. The IAC also recommended that the complainant be awarded 5,000 euros in moral damages for the flaws in the competition process.

20. The complainant's arguments on these issues involved no more than a very brief tabulation of the conclusions of the IAC which was said to be "incorporated by reference" into the complainant's legal brief and a "[maintenance] of [the] argumentation as presented during the internal appeal procedure". This is an entirely unacceptable way of presenting an argument to the Tribunal and creates the real risk that the Tribunal will not appreciate the arguments advanced (see, for example, Judgments 3434, under 5, 2264, under 3(a), and 3538, under 5). The Tribunal will thus focus on the conclusions of the IAC favourable to the complainant.

21. The IAC concluded that there had been a breach of Article 2(1)(e) of Annex II to the Service Regulations which requires, in certain circumstances, that the vacancy notice specify what kind of tests would be used and how they would be marked. This requirement arises if the competition is on the basis of tests. The vacancy notice said that "[t]he successful candidate(s) will be selected on the basis of

qualifications, supplemented as appropriate by interviews and/or tests". Plainly this is not a "competition […] on the basis of tests" (as qualifications were to be important and interviews were contemplated), which is the limited circumstance in which, under Article 2(1)(e), it is necessary to specify in the vacancy notice what kind of tests they will be and how they will be marked (see Judgments 2766, under 6, and 3520, under 5).

22. The IAC concluded that manifestly erroneous conclusions had been drawn from the facts. This appears to be a reference to steps undertaken by the Selection Board though the IAC refers, in its report, to errors of the "Office". The IAC focused on the conclusion reached by the Selection Board that the complainant was not suitable for the position in the face of conclusions to the opposite effect arising from the fact that she had succeeded in the competition for the position in 2008 at the outset and that she had been assessed as performing her work satisfactorily thereafter.

Article 7(2) of the Service Regulations provides:

> "For each competition, a selection board, the composition of which is laid down in Annex II, shall be appointed by the appointing authority. This board shall draw up a list of suitable candidates.
>
> The appointing authority shall decide which of these candidates to appoint to the vacant post."

Two features of the report of the Selection Board are important. The competition involved 126 applicants, 12 of whom were invited for interview, including the complainant. In relation to the complainant, the summary of the assessment of her concluded "Despite her previous experience as a Euro contractor in Directorate 5.3.2, the Board finds [the complainant] not suitable, and does not recommend her for the permanent post." In what appears to be the concluding part of the report (the Tribunal has only been provided with extracts) the Selection Board said:

> "The Selection Board unanimously recommends that the following candidate should be offered the permanent A4/A1 post of lawyer in Directorate 5.3.2:
>
> [name redacted]

and that:

[name or names redacted]

should be placed on the reserve list for the permanent post."

What the Selection Board did does not accord with its functions arising under Article 7(2). The members of the Board were not charged with the task of identifying one candidate as the most suitable and recommending that candidate for appointment, even if they also identified another or other candidates on a reserve list. Their task was more straightforward. It was to identify all candidates who were suitable for appointment and provide a list of them to the appointing authority. This reveals a significant flaw in the competition process (see, for example, Judgment 1315, under 9 and 10). It is tantamount to the Selection Board determining the outcome of the competition (Judgment 2762, under 18 to 23). The Tribunal cannot discount the possibility that, in assessing the complainant, the Selection Board's conclusion that the complainant was not suitable was informed by a mistaken belief that its functions included identifying the candidate who should be offered the position, as well as one or a number who should be put on a "reserve list". This is particularly so having regard to the matters identified by the IAC in its report about the suitability of the complainant. As is apparent from the quotation concerning the complainant set out above, the Selection Board conflated its finding about suitability with the task, erroneously assumed, of recommending an individual for the post. Accordingly, the competition was flawed and the complainant is entitled to relief.

23. The ultimate conclusion of the IAC was correct. The Tribunal should observe that it does not agree with the position adopted by the Vice-President in the impugned decision that the IAC necessarily exceeded the terms of its mandate by performing its own evaluation of the complainant's candidature as part of the process of ascertaining whether there were any irregularities in the competition process (see Judgment 2781, under 16). The Tribunal should also observe, at this point, that contrary to the contention of the complainant, the Vice-

President did provide generally adequate reasons in the impugned decision for rejecting the various recommendations of the IAC even though, in this respect, his reasons were wrong.

24. In the result, the competition for the contested position should be cancelled from the point it was affected by legal error, as should the decision to appoint the successful candidate, though that person should be shielded from any injury resulting from this decision. The complainant should be awarded moral damages in the sum of 10,000 euros. She is also entitled to costs assessed in the amount of 1,200 euros for the proceedings before the Tribunal and the internal appeal proceedings. All other claims should be dismissed.

DECISION

For the above reasons,

1. The competition for the contested position (advertised through vacancy notice INT/EXT/5131) is cancelled from the point at which the Selection Board prepared a list for the appointing authority and the decision to appoint the successful candidate to that position is quashed.

2. The EPO shall ensure that the successful candidate is shielded from any injury that might result from the quashing of that decision.

3. The complainant shall be awarded moral damages in the sum of 10,000 euros.

4. She shall also be awarded 1,200 euros in costs.

5. All other claims are dismissed.

In witness of this judgment, adopted on 5 November 2015, Mr Giuseppe Barbagallo, Vice-President of the Tribunal, Ms Dolores M. Hansen, Judge, and Mr Michael F. Moore, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 3 February 2016.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

MICHAEL F. MOORE

DRAŽEN PETROVIĆ