

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

112th Session

Judgment No. 3082

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mrs M. T. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 1 December 2009, UNESCO's reply of 15 June 2010, the complainant's rejoinder of 20 September and the Organization's surrejoinder dated 17 December 2010;

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

Having examined the written submissions and decided not to order hearings, for which neither party has applied;

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

A. The complainant is a Filipino national born in 1952. She joined UNESCO in 1978 as an audio typist at grade GS-3 and was thereafter promoted several times, reaching grade GS-6 in 1999. At that time she held the post of secretarial assistant to the Chairperson of the Executive Board. Following the implementation of a new job classification scale for General Service staff at the Headquarters of the Organization, comprising seven grades instead of the former six, her post was reclassified at grade G-7 with effect from 1 January 2000.

In January 2003 the Organization published Administrative Circular No. 2177, entitled “The revised classification standard for posts in the General Service category”. The standard was to serve as a basic tool for the Job Evaluation Committee (JEC), which was responsible for examining the grade of posts in the General Service category on the basis of updated job descriptions, before making a recommendation to the Director-General on the classification of each post.

On 16 December 2003 the Director of Human Resources Management (HRM) informed the complainant that the JEC had submitted its recommendations to the Director-General, who had decided that her post should be maintained at grade G-7. On 27 February 2004 the complainant wrote to the Director of HRM contesting that decision and asking that the matter be reviewed in accordance with Administrative Circular No. 2195 of 24 December 2003, establishing the Job Evaluation Recourse Committee (JERC), which was responsible for reviewing internal complaints filed against the reclassification decisions taken on the basis of the revised classification standard. The complainant requested a desk audit of her post and asked to be provided with a copy of the JEC’s report concerning her post. The matter was reviewed by the JERC, which heard the complainant and her supervisor on 21 June 2004. It concluded that the post was correctly graded and therefore recommended that it remain at grade G-7. The complainant was informed on 3 November that the Director-General had decided to endorse the JERC’s recommendation. The previous day, the complainant’s immediate supervisor, the Secretary of the Executive Board, had submitted to HRM a new job description which, in his view, better reflected the complainant’s duties. He proposed to modify her job title to “Executive Assistant”.

By a memorandum of 3 December 2004 addressed to the Director of HRM the complainant reiterated her request for a desk audit of her post. She stated that the JERC had concluded that HRM should conduct that audit, as it was not competent to consider the issue of reclassification from the General Service category to the Professional category. Following exchanges of communications with the

Administration, the complainant met with the Deputy Director-General on 31 August 2005 to discuss issues pertaining to the evaluation of her post.

On 23 December 2005 the Deputy Director-General notified her that HRM had completed its assessment of her post and that its grade was correct. Consequently, he had not proposed any change to her administrative situation to the Director-General. On 22 January 2006 the complainant replied that she would file an internal appeal against his decision. The Director of HRM informed the complainant on 16 March that the Deputy Director-General had decided to arrange a desk audit of her post. Following the desk audit, the latter notified her on 20 June 2006 that the Director-General had decided to upgrade her post to P-2 with effect from 1 January 2006. The complainant replied to the Deputy Director-General on 12 July, contesting the date of reclassification, which, in her view, should have been 1 January 2003, since her post had been reclassified in the context of the job evaluation exercise, which had started in early 2003 with the evaluation of her post by the JEC. She also asked to be provided with a copy of the auditor's report.

On 18 August 2006 the complainant filed a notice of appeal with the Secretary of the Appeals Board. In the detailed brief that she submitted to the Board on 29 August 2007, she contended that her post should be graded P-3 "at least", as she had been responsible, since before 2003, for the follow-up of activities on behalf of the Chairperson of the Executive Board and for conducting informal consultations on his behalf. She added that her post was equivalent to a post in the Office of the Director-General, which had been reclassified at P-4 level in January 2006. She also requested that the effective date of the reclassification of her post be 1 January 2003.

In its opinion of 11 December 2008 the Appeals Board considered that it was essential that the conclusion of the auditor of the complainant's post be fully backed by a thorough assessment of each particular element of the post. It also noted that the complainant's first request for a desk audit of her post had been made on 27 February 2004, when she had contested the JEC's decision to

maintain her post at grade G-7, and that she had had to reiterate her request several times before the Administration finally arranged for a desk audit in March 2006. According to the Board, the fact that the review of the complainant's post and the desk audit had been carried out in the context of the "Reclassification Reserve Exercise" for 2006-2007 did not mean that the complainant had requested that they should take place within that framework, particularly given that her initial request for a desk audit had been made in 2004; in fact, it appeared that it was the Administration that had taken the decision to proceed in that way. The Board also held that there was a "persuasive logic" in the complainant's contention that the reclassification of her post originated in the job evaluation exercise. Hence, it recommended that a further review of the classification of the complainant's post should be conducted and that, on that basis, the Director-General should determine the "ultimate level" of the post and its effective date of implementation.

The complainant was informed on 19 February 2009 that the Director-General had endorsed the Board's recommendations and that the classification of her post would therefore be reviewed by means of a desk audit. This audit was carried out in May and June 2009 and the auditor issued his report on 1 July 2009 recommending that the complainant's post be confirmed at the P-2 level, but with effect from 2 November 2004. He noted that the duties of the post had evolved over the past 15 to 20 years from a position where the focus was primarily one of secretarial support to one where the focus was broader, covering advisory, facilitative and analytical responsibilities. He added that, although it was difficult to be precise as to the point at which this change became a dominant aspect of the work, the earliest document reflecting that change was the revised job description established on 2 November 2004.

By a letter of 4 September 2009, which is the impugned decision, the Director of HRM informed the complainant that, in light of the second desk audit, the Director-General had decided to maintain her post at grade P-2. He had also decided that, in accordance with paragraph 120(f) of Administrative Circular No. 2191, her promotion

to P-2 was with effect from 2 November 2005, as at that time she had been performing functions at the P-2 level for a year.

B. The complainant argues that UNESCO breached the principle of good faith, in particular because the first desk audit of her post was delayed for almost two years. She criticises the lack of transparency in the decision-making process concerning the classification of her post. In particular, she contests the Organization's refusal to provide her with the two desk audit reports concerning her post despite her repeated requests.

In her view, the Organization overlooked material facts and reached a clearly wrong conclusion in deciding to reclassify her post at grade P-2 with effect from 2 November 2004. Indeed, it failed to take into consideration the statements made by former Chairpersons of the Executive Board, who supported her contention that the duties she performed justified classifying her post at a higher grade. She explains that, as she was their assistant, they were in a particularly good position to assess her responsibilities. She also contends that she has been performing the higher-level tasks of her post since 1993, and that the reclassification issue was raised within the context of the job evaluation exercise launched in early 2003.

The complainant asks the Tribunal to quash the impugned decision insofar as the Director-General rejected her request to have her post classified at grade P-3 and, in any event, insofar as the date of reclassification of her post at grade P-2 was 2 November 2004 and not 1 January 2003. She also asks the Tribunal to order UNESCO to produce the two desk audit reports concerning her post. In addition, she seeks moral damages in the amount of 5,000 euros and costs in the amount of 4,000 euros.

C. In its reply UNESCO contends that any claims which relate to decisions made prior to 4 September 2009 are irreceivable for failure to exhaust internal remedies and because they are time-barred. It indicates that the complainant did not file an internal appeal against the Director-General's decision of 3 November 2004 to follow the JERC's recommendation to confirm the grading of her post at

grade G-7. It also contends that the Tribunal is not competent to rule on the claim that the reclassification to grade P-2 should be made with effect from 1 January 2003 or to order that the complainant be promoted to grade P-3. Indeed, according to the case law, decisions regarding the classification of posts are subject to only limited review by the Tribunal.

UNESCO asserts that it correctly applied the rules and classification standards and that, contrary to the complainant's allegations, no material fact was overlooked. In particular, the statements of former Chairpersons of the Executive Board to which the complainant refers were duly taken into consideration by the second auditor, whose report was examined by the Director-General before he took his final decision.

The Organization denies any lack of transparency or bad faith on the part of the Director-General or the Administration during the reclassification procedure, stressing that the Director-General agreed to arrange a second desk audit pursuant to the Appeals Board's recommendation. It points out that the complainant was able to express her views throughout the reclassification process and that she was heard by both external auditors. Moreover, both of them recommended that her post be graded P-2. UNESCO adds that the complainant had access to all the necessary information during the internal appeal proceedings, and in particular to the summaries of the desk audit reports. Copies of the full reports are appended to its reply.

As to the date of reclassification of the complainant's post at grade P-2, the defendant states that the decision was made in accordance with Administrative Circular No. 2191 on recruitment, rotation and promotion. It acknowledges that the first classification review of the complainant's post was conducted within the framework of the job evaluation exercise but denies that the desk audits were carried out in that context. The decision of 3 November 2004 marked the end of the job evaluation exercise insofar as the Director-General

endorsed the JERC's recommendation to maintain the post at grade G-7. The decision to reclassify the complainant's post at grade P-2 was based on the job description of 2 November 2004 and was taken within the "Reclassification Reserve Exercise" for 2006-2007, which is different from the job evaluation exercise. The Organization adds that, according to the case law of the Tribunal, it is within the discretion of the administrative authority to determine the time at which a promotion takes place. Thus, the Director-General was entitled to decide that the promotion date should be 2 November 2005.

Lastly, UNESCO submits that the complainant has shown no causal link between the Organization's action and the injury she allegedly suffered. It therefore considers that her claim for moral damages is unfounded.

D. In her rejoinder the complainant points out that the Organization's objection to receivability based on the contention that she did not challenge any decision taken between 3 November 2004 and 22 June 2005 has already been dismissed as irrelevant by the Appeals Board, which noted that she had challenged the Director-General's decision of 3 November 2004 in her memorandum of 3 December 2004.

She maintains that the reclassification of her post at grade P-2 is linked to the job evaluation exercise and not to the "Reclassification Reserve Exercise" for 2006-2007. Indeed, the JERC recommended that her post be evaluated for a possible reclassification to the Professional category, as shown by the rating sheet it established following the hearing of 21 June 2004. Moreover, the above-mentioned Reclassification Exercise started long after she had raised objections with the JERC but her supervisor had decided to list her post under the Reclassification Exercise just in case her contestation failed.

As to her claim for moral damages, she explains that the mere fact that she had to file an internal appeal and then a complaint with the Tribunal because of UNESCO's "inflexible, illogical and inconsistent attitude" with regard to the classification of her post is sufficient evidence of the moral prejudice caused to her by the Organization.

E. In its surrejoinder UNESCO submits that the statement on the JERC's rating sheet regarding reclassification to the Professional category refers to the complainant's request and not to the JERC's conclusion. Indeed, on the bottom of the page, the JERC indicated that its assessment showed that the post should be maintained at grade G-7. It adds that the complainant has not shown that the auditors made errors in classifying her post at grade P-2 and not P-3.

CONSIDERATIONS

1. The complainant joined UNESCO in April 1978 as an audio typist at grade GS-3. In 1992 she was transferred to the post of secretarial assistant to the Chairperson of the Executive Board, initially at the GS-5 level. In 1999 she was promoted to GS-6 because her post had been reclassified.

2. Following the implementation on 1 January 2000 of a new job classification scale for General Service staff at the Organization's Headquarters, comprising seven grades instead of the former six, the complainant's post, SCX-006, was reclassified at grade G-7.

3. When Administrative Circular No. 2177 of 30 January 2003 entered into force, introducing a revised classification standard based on the new scale for posts in the General Service category at Headquarters, the Job Evaluation Committee (JEC), which was set up on the same occasion, recommended that the complainant's post should remain at grade G-7. The complainant was informed by a memorandum of 16 December 2003 that the Director-General confirmed this classification at G-7 and that her administrative situation would therefore remain unchanged.

4. The complainant, who considered that this classification did not accurately reflect the real level of her responsibilities, lodged an internal complaint with the Job Evaluation Recourse Committee (JERC), which had been established under Administrative Circular No. 2195 of 24 December 2003. This complaint was accompanied by a

request for a desk audit of her post. After having consulted HRM as to whether it might be appropriate to reclassify this post in the Professional category, which HRM considered to be unwarranted, the JERC recommended that the complainant's internal complaint should be rejected. In accordance with the JERC's opinion and without having conducted the audit requested by the complainant, the Director-General confirmed the classification of her post at G-7 by a decision of 3 November 2004.

5. On 3 December 2004 the complainant sent a memorandum to the Director of HRM in which she again asked for a desk audit of her post. Her request was endorsed by the Secretary of the Executive Board who, on 2 November 2004, had drawn up a new job description in which he emphasised the importance of the duties inherent in this post.

6. After numerous exchanges with the Administration, the complainant met with the Deputy Director-General on 31 August 2005 as part of an informal mediation exercise. Having told the complainant on 23 December 2005 that he still did not intend to grant her request for the reclassification of her post, in view of her protests he ultimately agreed to arrange a desk audit, which was carried out on 21 March 2006.

7. By a note of 20 June 2006 from the Deputy Director-General, the complainant was informed that the Director-General had decided, in the light of the audit findings, to upgrade her post to P-2 and that this measure would take effect on 1 January 2006.

8. Since the complainant considered, on the one hand, that her post was in reality at least at the P-3 level and, on the other hand, that the reclassification should in any case have taken effect on 1 January 2003 because it had occurred within the framework of the above-mentioned job evaluation exercise and because all the reclassifications resulting from that exercise had taken effect on that date, she contested this decision before the Appeals Board. In its opinion of

11 December 2008, the Board recommended that the Director-General should re-examine the file with regard to those two issues.

9. On 4 September 2009 the Director-General decided to confirm the reclassification of the post in question at the P-2 level, in line with the findings of another desk audit which had been carried out at his request in May and June 2009. He did, however, change the effective date of this upgrading to 2 November 2004, which, by application of the rules governing staff members' entitlement to promotion in such cases, meant that the complainant could be promoted to grade P-2 one year later, i.e. on 2 November 2005.

10. The complainant, who impugns that decision before the Tribunal, continues to challenge both the level and the effective date of her post's reclassification. She also claims compensation for moral injury and costs.

11. In her complaint the complainant asked the Tribunal to order the production of the reports of the two above-mentioned desk audits, because she had received only summaries of them. Since the Organization has appended copies of these reports to its reply, this request has become moot.

12. UNESCO argues that the complainant's claims are irreceivable for several reasons.

13. The Organization first submits that the complainant may not challenge the decision to maintain her post at the G-7 level in the context of the job evaluation exercise which took effect on 1 January 2003, because she did not file a protest within the one-month time limit laid down in paragraph 7(a) of the Statutes of the Appeals Board against the Director-General's decision of 3 November 2004 confirming this classification at the end of the deliberations of the JEC and the JERC. It submits that the complainant therefore failed to meet the requirement set forth in Article VII, paragraph 1, of the Statute of the Tribunal that she should exhaust internal means of redress before

filing a complaint with the Tribunal. But the foregoing chronological account of the facts shows that on 3 December 2004, in other words before the expiry of the deadline, the complainant did submit a written request for a desk audit of her post, which she had requested in vain at the time when she filed her internal complaint with the JERC. Although the complainant's memorandum was not formally addressed to the Director-General, its purpose was in substance to contest the reclassification decision of which she had been notified. It must therefore be deemed to constitute a protest against this decision under the above-mentioned paragraph 7(a).

14. It is true that the complainant did not address a notice of appeal to the Appeals Board within one month of the implied rejection of this protest, as she should have done pursuant to paragraph 7(c) of the Statutes of the Appeals Board. But the complainant states in her submissions, without being contradicted on this point by the defendant, that her supervisor had informed her in January 2005 that HRM was re-examining the grading of her post, and it is clear from the evidence that negotiations with the Administration on that subject were ongoing from then until the decision taken on 20 June 2006. According to the case law of the Tribunal, which always seeks to ensure that procedural rules do not constitute traps that may catch out an individual acting in good faith, when an organisation gives a staff member to understand, before the expiry of a time limit for lodging an appeal, that it is re-examining a decision affecting him or her, the time limit is suspended throughout the negotiations with the person concerned (see Judgments 2066, under 5, and 2300, under 4(b)). As the conditions for applying this case law are met in this case, the complainant may challenge the decision of 3 November 2004 which confirmed the grading of her post.

15. The Tribunal further notes that, when the complainant met with the Deputy Director-General on 31 August 2005, she was informed, according to the record of this meeting, that if she wanted to uphold her complaint regarding the grading of her post at G-7 level, she would have to "pursue her interests through the standard appeal

process”, which shows that the Organization itself was of the opinion that she was not time-barred from doing so.

16. The Organization also argues that the complaint is irreceivable insofar as its purpose is to obtain that the effective date of the post reclassification is changed to 1 January 2003, because the Tribunal itself cannot order a reclassification. Although the latter statement is correct, the Tribunal is nevertheless competent to review a reclassification decision to the extent set forth below in consideration 20 and, if need be, to set it aside insofar as it does not take effect on a given date.

17. Lastly, the defendant submits that the complaint is irreceivable to the extent that the complainant is asking the Tribunal to order her promotion to grade P-3. Suffice it to say that the complainant did not enter any claim seeking such an order.

18. These various objections to receivability will therefore be dismissed.

19. The complainant considers that the impugned decision is unlawful in that it graded her post at the P-2 level and not, as she wished, at the P-3 level.

20. As the Tribunal has consistently held, the grading of posts is a matter within the discretion of the executive head of an international organisation. It depends on an evaluation of the nature of the work performed and the level of the responsibilities pertaining to the post, which can be conducted only by persons with relevant training and experience. It follows that grading decisions are subject to only limited review and that the Tribunal cannot, in particular, substitute its own assessment of a post for that of the Organization. A decision of this kind cannot be set aside unless it was taken without authority, shows some formal or procedural flaw or a mistake of fact or of law, overlooks some material fact, draws clearly mistaken

conclusions from the facts or is an abuse of authority (see, for example, Judgments 1281, under 2, 2514, under 13, or 2927, under 5).

21. In the instant case, the complainant first submits that the Director-General overlooked certain material facts when he classified her post. She considers that he ignored the attestations from the successive Chairpersons of the Executive Board, for whom she had worked as an assistant, although these senior officials were in a particularly good position to assess the level of duties inherent in her post. However, the fact that these attestations did not lead him to conclude that the post in question ought to be classed at a higher grade does not in any way imply that they were not duly taken into consideration. Furthermore, the Tribunal observes that although, in the documents in question, the Chairpersons of the Executive Board unanimously underline the importance of the complainant's post, none of them expresses an opinion as to the precise level at which it should be graded. Hence it cannot be inferred from these documents that the post should be at the P-3 rather than at the P-2 level. The only written evidence expressing an opinion on this point comes from other authorities and cannot be regarded as sufficient.

22. The complainant also puts forward the more general argument that the author of the impugned decision drew mistaken conclusions from the facts. But, as stated in consideration 20 above, the Tribunal's power of review in this respect is limited to ascertaining that no manifest error has been made, and it is clear that no such error was made in the instant case, where the classification of the post in question at the P-2 level was the result of two successive desk audits, whose reliability and objectivity are not in doubt and which both arrived at the same conclusion.

23. In particular, the complainant's argument that the first desk auditor had told her of the existence of a "similar post to [hers] in Geneva" at the P-4 level cannot be accepted. Indeed, apart from the fact that the possibility that this other post might have been incorrectly

graded cannot be excluded, the Tribunal notes that the auditor himself qualified his comment by concluding, as stated above, that the complainant's post was at the P-2 level.

24. The complainant's claim that her post should be upgraded to P-3 will therefore be dismissed.

25. The complainant contests the impugned decision insofar as it did not set the effective date of the reclassification of her post at 1 January 2003, as was the case for the other reclassifications that occurred within the framework of the job evaluation exercise conducted by the JEC and the JERC.

26. According to UNESCO, the disputed reclassification was not directly connected with the job evaluation exercise, since the decision of 3 November 2004 quoted above constituted a final decision to maintain the post in question at grade G-7. That was why the Director-General initially thought that he could make 1 January 2006 the date on which the reclassification to P-2 took effect, which enabled it to be included in the "Reclassification Reserve Exercise" for 2006-2007, and why he subsequently made it 2 November 2004 on the basis of the second desk audit, which led to the complainant's promotion as of 2 November 2005.

27. But it is clear from the above-mentioned facts that the complainant's contestation, which was initiated by the internal complaint lodged on 3 December 2004, did concern the reclassification of her post in the context of the job evaluation exercise. In an attempt to deny that this was so, the defendant points to the fact that the Secretary of the Executive Board had proposed in a memorandum of 12 January 2005 that the post should be upgraded as part of the above-mentioned "Reclassification Reserve Exercise" for 2006-2007. But this proposal, which is plainly attributable to considerations of budgetary and administrative expediency, does not in any way call into question the original basis for the complainant's request. Moreover, the Tribunal notes that the Organization itself was not really unaware of

this, since the note of 20 June 2006, quoted above, from the Deputy Director-General mentioned, for example, that the discussion on 31 August 2005 concerned “the issues pertaining to the evaluation of [the complainant’s] post by the [Job] Evaluation Committee (JEC) and/or the Job Evaluation Recourse Committee (JERC)”.

28. As a result of the submission of the internal complaint of 3 December 2004, the Director-General’s decision of 3 November 2004 to reclassify the post in the wake of the JEC and the JERC’s deliberations had not become final and it can therefore be replaced with a different reclassification effective as of 1 January 2003, as indicated earlier in considerations 13 to 16 concerning the receivability of the present complaint.

29. Moreover, the Organization’s argument that the JERC was not competent to reclassify Professional category posts is no justification for not upgrading the post in question to the P-2 level as from 1 January 2003. Indeed, it is clear from the evidence that a procedure for such reclassification did exist and the defendant does not dispute the complainant’s statement that several other posts were in fact reclassified in the Professional category following desk audits conducted at that time within that framework.

30. Nevertheless, the upgrading of the post as of 1 January 2003 does of course depend on whether the complainant actually performed P-2 level duties during the reference period considered by the JEC, that is from February 2002 to February 2003. In this regard, the second desk auditor, after having emphasised that the duties inherent in the post had gradually evolved over a period of 15 to 20 years, stated that the earliest document clearly indicating that they corresponded to the P-2 level was the job description of 2 November 2004. In the absence of any other available documentation, he therefore proposed that the post should be upgraded as from that date. But, as the Appeals Board rightly pointed out, that date does not coincide with any change in the substance of the post. On the contrary, it is plain from a memorandum

of the Secretary of the Executive Board dated 3 December 2004 that this new job description merely “reflect[ed] more faithfully and better highlight[ed] the duties and functions inherent to that post” and that the complainant’s responsibilities had in fact been at more or less the same level

for several years. In these circumstances, where it is necessary to determine on the basis of the evidence an issue that is not directly related to the technique of job evaluation, the Tribunal will find that the complainant’s post must be regarded as having already comprised P-2 level responsibilities during the period February 2002 to February 2003.

31. It follows from the foregoing that the impugned decision must be set aside insofar as it did not take effect on 1 January 2003. The case will be referred back to the Organization for an examination of the complainant’s rights in consequence of this finding.

32. In support of her claim for moral damages, the complainant submits that UNESCO has displayed bad faith and a lack of transparency in handling her case.

33. In this connection, she complains of the fact that the Organization initially refused to send her the two desk audit reports. She did, however, obtain summaries thereof, the conclusions of which contained enough information for her to understand the reasons for the decisions taken by the Director-General and for her to exercise her right of appeal under satisfactory conditions. In addition, as already stated, the defendant produced the full version of the reports in the course of the instant proceedings. In these circumstances, the Tribunal considers that the Organization has not breached its duty to inform the complainant (for comparable cases, see Judgments 2807, under 6, and 2927, under 8 and 12).

34. On the other hand, there is merit in the complainant’s submission that UNESCO breached its duty of care towards her and its duty to handle her case promptly, in that it did not conduct the desk audit which she had requested until 2006 and then refused to

implement the reclassification of her post retroactively as of 1 January 2003, when the other reclassifications resulting from the job evaluation exercise took effect. Both the desk audit which the Organization finally agreed to commission in 2006 and the second desk audit in 2009 demonstrated that the classification of the complainant's post at the G-7 level was indeed incorrect. Furthermore, as stated earlier, the Organization was obliged to set the date on which the decision to upgrade the post to the P-2 level took effect at 1 January 2003. These breaches have had the combined effect of unduly delaying the reclassification until the delivery of this judgment, in other words for nine years. This wrongful conduct has caused the complainant moral injury, which may be fairly redressed by awarding her compensation in the amount of 3,000 euros.

35. As the complainant succeeds in part, she is entitled to costs, which the Tribunal sets at 2,000 euros.

DECISION

For the above reasons,

1. The decision of 4 September 2009 is set aside insofar as it did not set the effective date of the reclassification of post SCX-006 at the P-2 level at 1 January 2003.
2. The case is remitted to UNESCO for an examination of the complainant's rights in consequence of the setting aside of that decision.
3. The Organization shall pay the complainant 3,000 euros in compensation for moral injury.
4. It shall also pay her costs in the amount of 2,000 euros.
5. All other claims are dismissed.

In witness of this judgment, adopted on 10 November 2011, Mr Seydou Ba, President of the Tribunal, Mr Claude Rouiller, Judge, and Mr Patrick Frydman, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 8 February 2012.

Seydou Ba
Claude Rouiller
Patrick Frydman
Catherine Comtet