Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

113th Session **Judgment No. 3138**

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Ms A.-M. B. against the International Telecommunication Union (ITU) on 9 September 2010 and corrected on 25 October 2010, the Union's reply of 2 February 2011, the complainant's rejoinder of 10 May and the ITU's surrejoinder of 5 August 2011;

Considering the third complaint filed by the complainant against the ITU on 14 September 2010 and corrected on 25 October 2010, the Union's reply of 4 February 2011, the complainant's rejoinder of 6 May and the ITU's surrejoinder of 5 August 2011;

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, who was born in 1962, has dual Danish and French nationality. She entered the service of the ITU on 19 October 1998 on a short-term appointment which was renewed several times.

On 1 October 2000 she was given a two-year fixed-term appointment and was assigned to the Policies, Strategies and Financing Department of the Telecommunication Development Bureau (BDT) as an administrative assistant at grade G.5. This contract was successively extended until 30 September 2004, 30 September 2005 and 30 September 2007. After some serious health problems which led to numerous periods of sick leave and which affected the complainant's performance, she was informed that a decision had been taken to withhold the salary increment due to her on 1 January 2007 and to assign her temporarily to the Planning, Budget and Administration Division of the BDT with effect from 6 August, in the hope that this new assignment would help her to reintegrate into the workplace. Her contract was extended until 30 November 2007 and again until 31 May 2008, but her salary increment due on 1 January 2008 was withheld. She was advised by a letter of 22 February that she was being offered "one last chance" to show satisfactory performance through a transfer to another division of the BDT. This took place on 1 March. Her contract was subsequently extended from 1 June 2008, when she was assigned to the service which became the Conferences and Event Organization Division of the BDT, until 31 May 2009.

The complainant's periodical performance appraisal report for 2008 was drawn up on 27 May 2009. For the overall assessment she was given a rating of 2, which meant that she had partly met requirements. By a memorandum of 10 June the Director of the BDT informed her that, as her performance had not improved since the beginning of the year and had even proved to be "unacceptable" in some areas, her contract was being extended for only six months as from 1 June. He added that appraisal meetings would be held at the end of each month and that, if her performance was deemed unsatisfactory, he would not recommend the extension of her contract. The complainant submitted her comments in a memorandum of 23 June, in which she suggested inter alia that an evaluation should be made only after a three-month period because of her heavy workload.

On 26 June 2009 the Indian authorities sent an e-mail to the mailbox of the Conferences and Event Organization Division, which

the complainant was responsible for checking twice daily. This e-mail confirmed the dates of a conference which was due to be held in India. On 29 June the Indian authorities resent this e-mail three times. The complainant, who had not brought these various messages to the attention of her supervisors, explained orally on 30 June and then in writing on 8 July that she had seen only the last e-mail. In response to a request from the Director of the BDT the Secretary-General then opened an administrative investigation. On 23 July, in the presence of a computer technician, the investigator accessed the complainant's professional mailbox while she was on leave. The next day he drafted an investigation report in which he stated that the e-mails in question, which were all marked as having been read, had been found in the "deleted items" folder of that mailbox and that only the complainant, or a person who knew her password, could have deleted them. He emphasised that, according to the Director of the BDT, the fact that these e-mails had not previously been brought to his attention had led to serious diplomatic consequences. The complainant commented on this draft report.

By a letter of 4 September the Chief of the Administration and Finance Department forwarded a copy of the final version of the investigation report, dated 31 July 2009, to the complainant and explained that the Secretary-General was contemplating disciplinary action against her for serious misconduct if her responsibility were definitively established. Pursuant to Staff Rule 10.2.1 he invited her to submit any comments she might have. Pending receipt thereof and any additional investigation to which they might give rise, the complainant was immediately suspended from duty, with pay, for a period which would normally not exceed three months, in accordance with Staff Rule 10.1.3, because the Secretary-General and the Director of the BDT considered that the charge against her of serious misconduct was well founded and her continuance in office would be prejudicial to the service. On 15 October the complainant submitted her comments and requested an additional investigation. On the same date she requested the Secretary-General to review the decision to suspend her from duty. This request was denied by a memorandum of 27 November 2009

which the complainant says she received by post only on 7 January 2010, as it had initially been sent to her professional e-mail address and by internal mail. On 24 February 2010 the complainant lodged an appeal with the Appeal Board against the decision of 27 November 2009.

In its report of 10 May 2010 the Board concluded that the complainant ought to have been heard before she was suspended from duty and, since it had not been alleged that she had acted with malice, the acts on which the charge was based did not constitute serious misconduct. In the circumstances, it recommended that the Secretary-General should recognise that her suspension was unjustified and that he should grant her 5,000 Swiss francs in compensation for moral injury. The complainant was informed by a letter of 8 July 2010 that the Secretary-General considered that the Board's report was tainted with several errors of fact and of law and that he had decided to dismiss her appeal. That is the impugned decision in the third complaint.

In the meantime, the complainant had been informed by a letter of 17 November 2009 that her appointment had been extended from 1 December 2009 to 30 April 2010 "as an interim precautionary measure" and that this decision in no way prejudged her performance, her conduct or "the outcome of the current proceedings concerning [her]".

Also on 24 February 2010 the complainant sent a memorandum to the Secretary-General to request the "cancellation" of her suspension from duty and compensation for the injury caused by the excessive duration of that measure and by the late notification of the decision of 27 November 2009. The Chief of the Administration and Finance Department advised her by a letter of 31 March 2010 that it had become apparent following a "careful examination of [her] file" that her performance had "all too often been unsatisfactory", despite the fact that the Union had given her the means to improve. He stated that the conduct giving rise to her suspension, which constituted misconduct within the meaning of Staff Rule 10.1.1, could lead to disciplinary action but that, "in view of the circumstances", the Secretary-General had decided not to pursue disciplinary proceedings.

On the other hand, as her conduct constituted further proof that the ITU could "justifiably not rely on [her] services to carry out its important mission", the Secretary-General had also decided to accept the recommendation made to him by the Director of the BDT in his memorandum of 12 March, not to renew her contract when it expired on 30 April. The complainant was also awarded a "separation grant" equivalent to three months' salary and allowances.

As she had not received a reply to her memorandum of 24 February 2010, the complainant wrote to the Secretary-General on 19 April to ask him to review the implied decision to reject her claims. The Chief of the Administration and Finance Department replied to her by a letter of 11 June 2010 – which is the impugned decision in the second complaint – stating that, having regard to various factors, it seemed "reasonable" to consider that she could have acquainted herself with the decision of 27 November 2009 before 7 January 2010. Although her request for the "cancel[lation of] the extension of the interim precautionary measure to suspend" her appeared to have become moot, he noted that "after the initial period of suspension […], [she had] not been sent any decision informing [her] of the steps undertaken by the Administration to find [her] another post in the BDT" and that that situation might have caused her moral injury for which the Secretary-General was "prepared to grant compensation". In a memorandum of 8 July the complainant announced that she estimated her injury at 15,000 euros. In a letter dated 27 July 2010 the head of the above-mentioned department told her that he regarded that amount as "excessive and unreasonable", because the decision to suspend her from duty had not caused her any material injury; he proposed compensation amounting to a maximum of 5,000 francs in full settlement of all claims.

B. In her third complaint the complainant contends that, as suspension from duty constitutes a decision adversely affecting the person concerned, it must be taken with due respect for the right of defence, and that an exception to this rule is permissible only where the Administration can prove the existence of "extreme urgency". She adds that if a staff member cannot be heard before the adoption

of such a measure, the Administration must obtain his or her explanations as soon as possible and must review its decision in the light thereof. She draws the Tribunal's attention to the reasoning set forth in its Judgments 2365 and 2698 and cites in particular the case law of the courts of the European Communities, but comments that it seems inappropriate to defer the exercise of the right of defence until disciplinary proceedings are held or an internal appeal is examined. She emphasises that she was not heard before the decision to suspend her was adopted on 4 September 2009, despite the fact that there was no urgency, since the decision was based on an investigation report dated 31 July 2009. In addition, she deplores the fact that that report rested on information obtained by "hacking" her professional mailbox.

The complainant considers that the acts of which she is accused do not constitute serious misconduct. She points out that at no time was she told that the Director of the BDT was urgently awaiting a message from the Indian authorities, that it was falsely alleged that diplomatic consequences had ensued in order to magnify her mistake and that she had never been prompted by malice. In her view, the suspension therefore did not respect the principle of proportionality. As she could not be charged with "any lack of honesty or integrity", allowing her continuance in office would not, in her opinion, have been prejudicial to the service within the meaning of Staff Rule 10.1.3. Lastly, she observes that subparagraph (a) of that rule establishes that suspension may be ordered only if an investigation is conducted at the same time. In her case, the findings of the administrative investigation were known on 31 July 2009 and no additional investigation was held thereafter.

The complainant asks the Tribunal to set aside the impugned decision, as well as those of 4 September and 27 November 2009, to order the payment with interest of compensation in the amount of 15,000 euros and to award her costs in the sum of 7,000 euros.

In her second complaint the complainant contends that the ITU was wrong to notify her of the decision of 27 November 2009 by internal mail and by an e-mail sent to her professional e-mail address at a time when she could not enter her office because she had been

suspended. She states that, despite the steps which she took at the time, the Administration failed to ensure that that decision was conveyed to her promptly, with the result that, although she was informed of its existence on 8 December 2009, she was unable to acquaint herself with its contents until 7 January 2010.

She submits that, since under Staff Rule 10.1.3(b) suspension "should normally not exceed three months", any departure from this rule requires a reasoned decision. By tacitly extending the duration of her suspension without the slightest justification, the Administration therefore committed a fault for which she is entitled to compensation.

The complainant asks the Tribunal to set aside the impugned decision, to order the payment with interest of compensation amounting to 15,000 euros and to award her costs in the sum of 5,000 euros. In each complaint, she also asks it to rule that, if the sums awarded were to be subject to national taxation, she would be entitled to claim a refund of the tax paid from the ITU.

C. In its reply to the third complaint, the Union draws the Tribunal's attention to the fact that the complainant may have filed it out of time. It produces evidence to show that she had access to the organisation's premises and to her mailbox at all times and that she could also consult the latter from home. It therefore invites the Tribunal to consider whether the complainant deliberately delayed notification of the decision of 27 November 2009 so as artificially to extend the time limit for lodging an appeal with the Appeal Board.

On the merits, the Union argues that, in accordance with the Tribunal's case law, suspension is an interim precautionary measure which need not necessarily be followed by a substantive decision to impose a disciplinary sanction. That being so, the complainant may not assert a right to be consulted as to the advisability of taking such a measure against her. Nevertheless, in the opinion of the ITU, her right of defence was respected because she had the opportunity to present her comments on 15 October 2009. The Union points out that, since the minutes of a meeting held on 16 July 2009 show that the complainant had agreed to allow the information technology services

to access her computer, there is no question of her professional mailbox being hacked. Although the complainant was absent on the day it was accessed, there is nothing to indicate that she could not have asked someone to represent her.

Moreover, the Union considers that the decision to suspend the complainant from duty was well founded and it emphasises that her conduct did constitute serious misconduct. She failed to display the professionalism and rigour expected of her, and her continuance in office was likely to be prejudicial to the service within the meaning of Staff Rule 10.1.3, insofar as she might well have repeated the same mistakes, with “substantial, if not disastrous consequences for the service, the organisation’s image and the reputation of the Director of the BDT”. The Union observes that the complainant interprets the above-mentioned rule, especially the term “investigation”, very restrictively. It considers that a staff member may be suspended throughout the duration of the disciplinary proceedings if this is in the ITU’s interests and that the three-month period mentioned in the rule is only a “theoretical time limit”, an interpretation which the Tribunal accepted in Judgment 2601.

In its reply to the second complaint, the Union contends that it is irreceivable, because the letter of 27 July 2010, which invited the complainant to express her opinion on the amount of compensation offered in respect of the moral injury she had suffered, did not constitute a final decision.

On the merits, the defendant maintains that the complainant was able to acquaint herself with the decision of 27 November 2009 in due time. It states that, as the complainant did not report for work in December 2009, in other words after three months’ suspension from duty, it concluded that she was not prepared to face up to her former working environment and that it was necessary tacitly to extend her suspension in order to identify another post which might help her to resolve her problems. However, those efforts proved fruitless. The Union also maintains that, since the suspension did not cause any material injury to the complainant, compensation amounting to 15,000 euros is unreasonable.

D. In her rejoinder regarding her third complaint the complainant contends that it is not time-barred, because both it and her internal appeal were filed within the prescribed time limits. On the merits she presses her pleas. She points out that the fact that she had agreed to the information technology services accessing her mailbox does not mean that she had waived her right to be present when they did so. In her opinion, Staff Rule 10.1.3 is clear and requires no interpretation. In stating that a suspension might apply throughout the duration of an investigation, the ITU has, according to her, “rewritten” that provision “to alter the meaning and scope to suit its purposes”.

In her rejoinder in the context of her second complaint, the complainant points out that the decision of 11 June 2010 was not perfect. She relies on the Tribunal’s case law in order to submit that the steps taken to reach an amicable settlement of a dispute do not, as a rule, have the effect of extending the time limit for lodging an appeal. Even if the decision of 27 July 2010 completed the decision of 11 June 2010, it nevertheless adversely affected her in that it refused her claim for compensation. In her view, she was therefore entitled to challenge it directly before the Tribunal.

On the merits, the complainant says that she was never told that she could consult her professional mailbox from home or how to do so.

E. In its surrejoinders the ITU maintains its position in full. As far as the second complaint is concerned, it explains that, in accordance with Judgment 2584, the negotiations between the complainant and the Administration extended the time limit for filing a complaint for a corresponding period by virtue of the principle of good faith. It asserts that, after being suspended from duty, the complainant went to the ITU on several occasions. It also produces evidence that she continued to access her professional mailbox. In these circumstances, the Union holds that, in conveying the decision of 27 November 2009 to her by e-mail to that mailbox and by internal mail it “justifiably and in good faith” considered that the complainant would acquaint herself with the contents of the decision in question without delay.

CONSIDERATIONS

1. The complainant was recruited by the ITU in 1998. After a succession of short-term appointments, she was granted a fixed-term appointment which was extended on several occasions. At the material time she was assigned to the Conferences and Event Organization Division of the BDT.

2. On 26 June 2009 the Indian authorities had sent an e-mail confirming their agreement to host the 2010 World Communication Development Conference from 24 May to 4 June 2010. As they received no reply, they resent on 29 June 2009 the e-mail three times. The complainant did not forward any of these messages to her supervisors, although that formed part of her duties. When she was called to account by her supervisors, she was unable to provide a satisfactory answer. On 23 July, in the context of an administrative investigation opened by the Secretary-General in order to ascertain what had become of these e-mails, her professional mailbox was accessed while she was on leave. The investigator concluded that the e-mails in question had been deleted after having been read and that they could only have been deleted by the complainant herself or by a person who knew her password.

The Chief of the Administration and Finance Department informed the complainant by a letter of 4 September 2009 that the Secretary-General was contemplating disciplinary action against her and he invited her to submit her comments. Pending receipt thereof and the additional investigation to which they might give rise, the complainant was immediately suspended from duty under Staff Rule 10.1.3, because the Secretary-General and the Director of the BDT considered that the charge of misconduct levelled at her was well founded and that her continuance in office would be prejudicial to the service. It was plainly stated that this suspension should normally not exceed three months. The complainant submitted her comments on 15 October. On the same date she also presented a request for a review of the decision to suspend her from duty. This request was denied by a memorandum of 27 November 2009. As this

memorandum was initially sent by internal mail and by e-mail to the complainant's professional mailbox, she apparently did not receive it by post until 7 January 2010. The Appeal Board, to which the complainant had referred the matter in February, recommended that the Secretary-General should recognise that the suspension had been unjustified and should award her compensation in the amount of 5,000 Swiss francs for the moral injury suffered. On 8 July 2010 the Secretary-General informed her that he had decided not to follow those recommendations. That is the decision impugned before the Tribunal in the third complaint.

3. In the meantime, the complainant had been informed, by letter of 17 November 2009, that her contract had been extended "as an interim precautionary measure" from 1 December 2009 to 30 April 2010 and, by letter of 31 March 2010, that the Secretary-General had decided not to pursue disciplinary proceedings and not to renew her contract when it expired.

4. In a memorandum which she sent to the Secretary-General on 24 February 2010, the complainant requested inter alia compensation for the injury resulting from the inordinate length of her suspension and from the late notification of the decision of 27 November 2009. As she received no reply, on 19 April 2010 she requested a review of what she considered to be an implied refusal of her claims. In his reply of 11 June 2010 the Chief of the Administration and Finance Department contested her assertion that she had not received the decision of 27 November 2009 until 7 January 2010. He informed her, however, that since "after the initial period of suspension […], [she had] not been sent any decision informing [her] of the steps undertaken by the Administration to find [her] another post in the BDT", that situation might have caused her moral injury for which the Secretary-General was "prepared to grant compensation". This is the decision which the complainant impugns in her second complaint. On 8 July the complainant announced that, by her reckoning, her injury amounted to 15,000 euros, but the chief of the above-mentioned department informed her, in a letter

of 27 July 2010, that he was proposing compensation amounting to a maximum of 5,000 francs in full settlement of all claims.

5. As both complaints concern the events surrounding the decision to suspend the complainant from duty, it is appropriate that they be joined to form the subject of a single judgment.

6. While it is unnecessary to rule on the receivability of the third complaint (see considerations 7 to 12 below), it must be found that the second complaint is manifestly receivable. Indeed, although the decision impugned in the second complaint does not constitute a final decision, that adopted on 27 July 2010, which supplements it and which must be regarded as the impugned decision, does put an end to the challenge raised in the memorandum of 24 February 2010. Moreover, the parties agree that the latter decision could be challenged directly before the Tribunal as, by that date, the complainant was no longer in the Union's employ.

7. It must first be recalled that under Article II, paragraph 5, of its Statute, which defines its jurisdiction, the Tribunal is competent to hear complaints alleging non-observance, in substance or in form, of the terms of employment of officials and of the provisions of the Staff Regulations applicable to a particular case. On that basis, it develops its own case law which takes account of the fundamental rights enjoyed by civil servants and the general principles of the international civil service. On the other hand, it is in no way bound by the case law of other international courts, or by that of the courts of the European Communities, to which the complainant refers extensively in her submissions.

8. The suspension of an official, even if it is only an interim measure, is liable to undermine the esteem in which that person is held within the employing organisation or, at least, within the service to which he or she is assigned. In these circumstances, having to face other people and being suddenly plunged into precarious inactivity can generate acute stress which might have repercussions on the

person's health, depending on his or her sensitivity and constitution. Even if suspension is not necessarily followed by a substantive decision to impose a disciplinary sanction, it is plainly a decision adversely affecting the person concerned which must be legally founded, justified by the requirements of the organisation and in accordance with the principle of proportionality. A measure of suspension will not be ordered except in cases of serious misconduct (see Judgment 2698, under 9).

9. In the instant case, the measure of suspension was adopted pursuant to ITU Staff Rule 10.1.3, which reads in pertinent part as follows:

> "a) When a charge of serious misconduct is made against a staff member, and if the Secretary-General or the Director of the Bureau concerned is of the opinion that the charge is well-founded and that the official's continuance in office pending an investigation of the charge would be prejudicial to the service, he or she may be suspended from duty by the Secretary-General, with or without pay, pending investigation, without prejudice to his rights. Such suspension shall not constitute a sanction in the meaning of Rule 10.1.2.
>
> b) A staff member suspended pursuant to paragraph a) above shall be given a written statement of the reason for the suspension and its probable duration. Suspension should normally not exceed three months."

In itself, this rule does not conflict with the case law cited above.

10. The complainant submits in her third complaint that her right of defence has been breached, on the one hand, because she was not heard prior to the adoption of the decision to suspend her from duty and, on the other, because this decision was based on an investigation report resting on information obtained after "hacking" her professional mailbox.

(a) Staff Rule 10.1.3(a) does not make any provision for the official concerned to be heard before the decision to suspend him or her is announced. Suspension is an interim precautionary measure which, in principle, must be adopted urgently, and this will often make it impossible to invite the person concerned to express their opinion beforehand. However, this person's right to be heard must be

exercised before the substantive decision is taken to impose a disciplinary sanction (see Judgment 2365, under 4(a)). In the present case, contrary to the complainant's wishes, there is no reason to depart from that case law, given that after being suspended from her duties she was able to submit her comments on 15 October 2009.

(b) It is certainly regrettable that the complainant's professional mailbox was consulted in her absence. However, the evidence in the file shows that she was informed that such a technical check was imminent and – naturally – it had to be carried out urgently. None of the circumstances on which she relies proves that, if indeed she was not able to be present, she could not have been represented.

The plea regarding a breach of the right of defence must therefore be dismissed.

11. The complainant also argues that the conditions laid down in Staff Rule 10.1.3(a) for ordering a suspension were not met in her case, because she had not committed serious misconduct and her continuance in office was not prejudicial to the service. She adds that, according to that subparagraph, an investigation had to be conducted at the same time as the suspension. These criticisms are unfounded.

It has been established that four important and apparently urgent e-mails from national authorities were received in the mailbox of the Conferences and Event Organization Division, that the complainant had a duty to forward them to her supervisors, and that they were deleted without having been forwarded.

Regardless of whether this repeated omission occurring over a period of two days was intentional or resulted from negligence, the Secretary-General and the Director of the BDT could well consider that it constituted serious misconduct, especially as it would appear that it almost caused a diplomatic incident. In view of the circumstances of the case, the Union could therefore legitimately consider that the complainant's continuance in office was prejudicial to the service and that suspension from duty – an interim precautionary measure designed to prevent any further mishaps – was the most suitable measure.

The fact that this measure was not ordered immediately after the commission of the acts which prompted it is not decisive and did not injure the complainant in any way. Furthermore, it is understandable that, in order to ascertain the complainant's responsibility, the Union considered it wise first to hold an administrative investigation in order to have at least some factual evidence. The complainant takes the ITU to task for not holding an investigation at the same time as her suspension, but the decision of 4 September 2009 notifying her of this measure made it clear that an additional investigation was in fact being contemplated.

It follows from the foregoing that the conditions laid down in Staff Rule 10.1.3(a) for ordering suspension were met.

12. The third complaint will therefore be dismissed without there being any need to examine the defendant's submissions to the effect that it may have been filed out of time.

13. The complainant asserts in her second complaint that she was unable to acquaint herself with the contents of the decision of 27 November 2009 until 7 January 2010. This assertion is incorrect in view of the explanations furnished by the Union, on which no doubt is cast by any of the evidence in the file. It is true that the complainant was notified of this decision by internal mail and by an e-mail sent to her professional mailbox, which was, to say the least, somewhat unwise, given that she had been suspended. In these circumstances, sending a letter to her private address would have been the appropriate method of notification. An e-mail in the file shows, however, that the complainant was informed on 14 December 2009 at the latest of this notification which had been sent to her office. At that juncture she could have asked to have the envelope on her desk sent to her at her private address and to have the e-mail forwarded to her private mailbox, but she did nothing. That being so, she is not in a position to complain of the late notification of the decision in question.

14. According to Staff Rule 10.1.3(b), suspension should normally not exceed three months. In the present case, it lasted for

more than seven months. The Union does not dispute the fact that it ought to have informed the complainant of the steps undertaken to find her another post, since her return to her previous job was inconceivable.

Irrespective of the question of whether the duration of the complainant's suspension was reasonable, it must be found that the Union breached its duty of care towards her by leaving her in a state of uncertainty, until 31 March 2010, as to the possible adoption of a disciplinary measure and by not informing her of the solutions it was considering for her professional future, particularly since the decision of 17 November 2009 extending her contract "as an interim precautionary measure" was hardly likely to reassure her. This breach of the duty of care caused the complainant moral injury, especially as the ITU itself underscores her psychological frailness.

The compensation of 5,000 francs offered to the complainant on 27 July 2010 is insufficient relief for that injury. Taking into account all the circumstances of the case, it must be raised to 12,000 francs and to that extent the decision forming the subject of the second complaint must be set aside.

15. As the complainant succeeds in part, she is also entitled to an award of costs in the amount of 2,000 Swiss francs.

16. The complainant asks the Tribunal to rule that, if the sums awarded were to be subject to national taxation, she would be entitled to claim a refund of the tax paid from the ITU. In the absence of a present cause of action in this regard, this claim must be dismissed.

DECISION

For the above reasons,

1. The decision of 27 July 2010 is set aside.

2. The ITU shall pay the complainant compensation for moral injury in the amount of 12,000 Swiss francs.

3. It shall also pay her the amount of 2,000 francs in costs.

4. All other claims in both complaints are dismissed.

In witness of this judgment, adopted on 27 April 2012, 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 4 July 2012.

Seydou Ba
Claude Rouiller
Patrick Frydman
Catherine Comtet