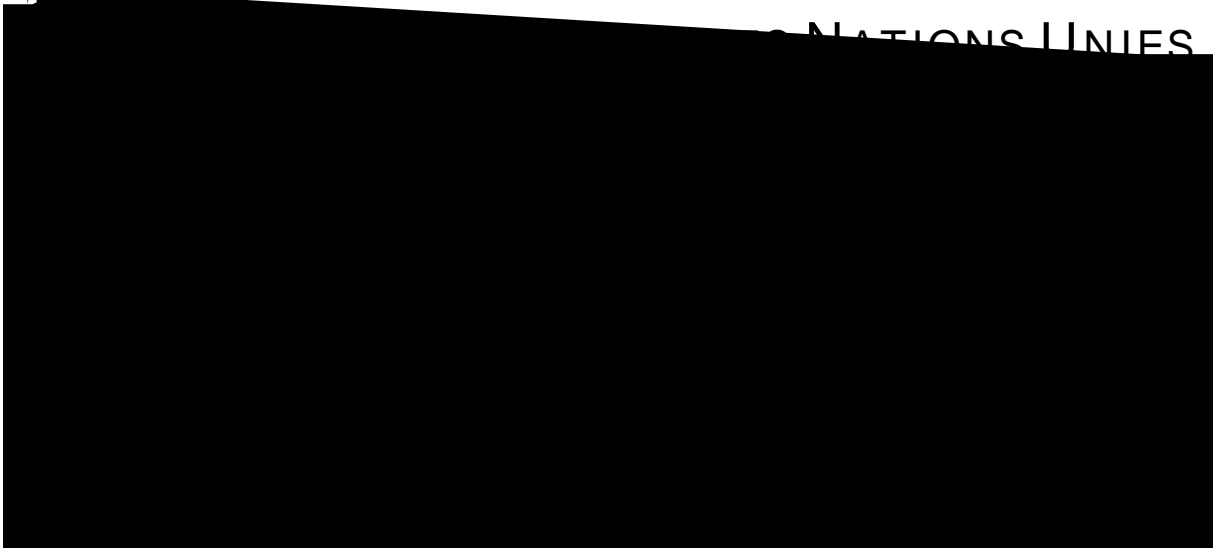




UNITED NATIONS APPEALS TRIBUNAL

UNITED NATIONS UNIES





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staff mem/er 8 re: uired independence and impartialit& t) us potentiall& reflecting ad"ersel&on t) e 6und andAor gi"ing rise to reputational concerns.

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; Accordinl&gi"en t) e ris- of reputational damages to t) e UNJ5\$6 in t) e e"ent of a conflict of interest+or e"en a perception or appearance t) ereof+t) e UN Bt) ics 4ffice notes t) at it 9ould /e prefera/le for an& UNJ5\$6 staff mem/er not to ser"e on t) e \$ension ' oard+as indeed pro"ided for in amended #ule C.1. Noting t) at amended #ule C.1 9as adopted after t) e April 2013 election+from an et) ics perspecti"e+and to mitigate an& potential conflict-of-interest ris- arising from an& staff mem/er concurrentl& ser"ing in t) e UNJ5\$6 5ecretariat 0e2ecuting /od& and on t) e \$ension ' oard 0g"erning /od&+t) e UN Bt) ics 4ffice notes t) at it 9ould /e ad"isa/le to re: uire an& suc) staff mem/er to restrict )im- or )erself from )andling matters in"ol"ing t) e UNJ5\$6+in accordance 9it) t) e re: uirements of 5taff #ule 1.20: 1.

?. In an e-mail dated 19 4cto/er 2018+ t) e C) airperson informed mem/ers of t) e ??<sup>9</sup> session of t) e \$ension ' oard+ including ( s. #oc-cliffe+ of t) e ad"ice t) at ) e ) ad recei"ed from t) e %irector of t) e Bt) ics 4ffice+and proposed t) at ( r. 6itCgerald+anot) er participants8 representati"e appointed to t) e ' . as an alternate+ ser"e su/stanti"el& on t) e ' . + in place of ( s. #oc-cliffe. In a follo9-up e-mail dated 22 4cto/er 2018+ t) e C) airperson confirmed ) is proposed arrangement.

3. 4n 22 4cto/er 2018+ ( s. #oc-cliffe filed an application for e2ecution of Judgment No. 2013-UNAT-803.

S\*, + i ion

S . Rockcliffe' Application fo" E7ec\* tion

8.

constituent groups, committees and working groups, the Chairperson had removed her name from the list of members of the . . .

9. ( s. #oc-cliffe maintains that the decision of the Chairperson was procedural and flawed as it circumvented the established process hereof and the Standing Committee of the Session Board is authorized to act for the Session Board when it is not in session.

10. ( s. #oc-cliffe contends that the Chairperson based his decision on an opinion from the Ethics Office that he had personally solicited. That opinion in turn based its rationale on the amendment to the Rules of Procedure of the Fund that had been found to be null and void.

11. ( s. #oc-cliffe alleges that the decision to remove her from the . . . appeared to be a direct act of retaliation against her for expressing her agreement with the report of the Ethics Office of Internal Affairs. It also demonstrates bad faith and collusion on the part of the secretariat of the Fund and the Chairperson.

12. ( s. #oc-cliffe requests that the Appeals Tribunal order the execution of Judgment No. 2013-UNAT-803.

The respondent's content

13. Judgment No. 2013-UNAT-803 issued by the Appeals Tribunal has been fully executed. ( s. #oc-cliffe received documents and training for and attended the UN5SC meeting on 8 November 2013. She also participated in the subsequent UN5SC meetings as well as the 77th session of the Session Board from 27 July to 2 August 2018. In a word ( s. #oc-cliffe ) has not been denied her right to participate in the UN5SC and the Session Board ( s. #oc-cliffe ) as been accorded all rights and privileges in accordance with the Appeals Tribunal Judgment, including access to all documents.

14. \* o9e"er+ ( s. #oc-cliffe's participation in the Session Board is not unfettered. It is governed by the norms of conduct that govern all members of the Session Board, including acting with the highest standards of efficiency and competence and integrity. After the Ethics Office finding that there was a conflict of interest for ( s. #oc-cliffe to serve as a member of the . . . + the matter should be resolved in favor of the interests of the Fund. There is no right for



options: either remain on the Session ' board and accept to be moved to another post outside of the Fund or continue to work in the Fund and resign from the Session ' board and the UN5SC.<sup>8</sup>

21. The main findings of the Appeals Tribunal on the merits were that it was no longer possible for the applicant to run for election to the UN5SC as he was not a full and elected member ( s. #oc-cliffe s) ould conse: uentl&/e accorded the same rights and privileges as the other duly elected UN5SC members+ including participating in Session ' board sessions and meetings and its constituent groups+ committees and working groups.

22. Consequently although the Appeals Tribunal did not explicitly address the issue of conflict of interest in its Judgment+ it impliedly reflected it+ /& means of applying the law in force at the time. The Appeals Tribunal stated that: ~~At~~ at the time when ( s. #oc-cliffe decided to be a candidate in the election there was no law which prevented her from being elected to the UN5SC.<sup>9</sup> The Appeals Tribunal held:<sup>10</sup>

; It therefore follows that as a direct consequence of her election to the UN5SC the same rights and privileges pertaining to an elected member are conferred upon ( s. #oc-cliffe. There is no law which empowers the Standing Committee to remove or restrict these rights and privileges.

; The Standing Committee's decision to deny ( s. #oc-cliffe access to the Session ' board documents and

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