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and a certificate from Dr. I., a Specialist in internal medicine and dietetics, dated 10 July 2013. She provided her own translation of the certificates in her email in question.

- ... On 16 July 2013, JMS replied to the Applicant requesting that she send a final report from her treating doctor, with as much details as possible, concerning investigations and therapies undertaken, to enable the Administration to certify her sick leave. JMS noted that the Administration would inform her about how much sick leave it would certify upon receipt of the report.
- ... On 3 August 2013, the Applicant sent a certificate from Dr. I., to the Human Resources Management Service ("HRMS"), UNOV/UNODC, together with its translation, and a prescription for pharmacotherapy from Dr. B.
- ... On 3 September 2013, the Applicant wrote to JMS informing that she was still under treatment. She attached a certificate from Dr. I. and provided a translation of it.
- ... On 4 September 2013, JMS replied that based on the certificate it was unable to make any further decision. In this email, JMS wrote:

Thank you for sending your certificate for extension of your sick leave. As your sick leave has now been above 3 months, I would ask you to provide us with a detailed medical report about diagnosis, examinations, therapy plan in English or with an official translation in order to be able to endorse any further sick leave. Based on the certificate supplied I am unable to make any further decisions.

... On 16 September 2013, the Applicant wrote to JMS. She attached diagnostic and pharmacotherapy treatment reports from Dr. F., a rheumatologist, and Dr. B., a psychiatrist, and indicated that the full clinical record was still to be released from

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... On 21 October 2013, JMS replied to the Applicant informing her about the need to have the reports written in a detailed manner, amongst other things, because it might be possi

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... On 16 January 2014, JMS informed HRMS, UNOV/UNODC, that the Applicant had to undergo an independent medical examination ("IME") to be conducted by Dr. P., a doctor located in Rome, who performed independent medical evaluations for the Food and Agricultural Organization.

... On 12 January 2014, the App

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... On 25 January 2015, the Applicant filed a request for management evaluation of the decision by the Deputy Medical Director, MSD, NY, to reject her request for disability benefit and not to recommend her for review by the UNSPC.

... On 13 February 2015, the Applicant was informed that prior to her separation, 42 days of certified sick leave had been used to cover her absence from 16 May to 12 July 2013, one day of annual leave balance and seven days of uncertified sick

5. In its Judgment, the UNDT held the decision was illegal and ordered it be rescinded as the decision relied upon the IME report from Dr. P., which the UNDT held was a result of unlawful procedures for the reasons set forth in its remand order, namely, that the terms of reference for the

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16. The Administration's calculation of Ms. Bezziccheri's leave status is accurate. The Administration was correct to categorize periods of her sick leave that had not been certified by the Medical Director, per Staff Rule 5.1(e)(ii), as unauthorized absence. The UNDT correctly found that

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ordered rescission. This assertion is erroneous as Article 10(5) of the UNDT Statute only requires in-lieu compensation when rescission involves "appointment, promotion or termination", which is not the concern in this matter.

26. The Secretary-General requests this Tribunal to dismiss the motion to strike evidence, as it is merely an attempt to supplement her appeal with additional arguments without having established exceptional circumstances.

Request for oral hearing

27. As a preli

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34. Further, it is indeed not up to a party to request that the Appeals Tribunal strike out each and every argument she or he does not agree with, since it is natural that the parties may dispute certain issues or matters at stake.⁶ In view of the foregoing, the motion is denied.

Merits

35. There is no challenge against the UNDT's finding that the 29 December 2014 decision not to recommend Ms. Bezziccheri for disability consideration by the UNSPC was illegal, mainly for procedural reasons, and it had to be rescinded. By Order No. 24 (GVA/2016), the UNDT adjourned the proceedings in this case so as to allow the Organisation to follow the required procedure

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Order No. 24/2016, and the "Organization's failure, inefficiency and deficiencies in its IME and Medical Board resolution system, and for the harm and anxiety" she suffered therefrom.

38. Ms. Bezziccheri further seeks in-lieu compensation, should the Secretary-General elect not to rescind the decisi

- 45. One of the main reasons for the UNDT's finding was that for Staff Rule 6.1(j) to apply, the independent practitioner or a medical board had to be acceptable to both parties. Indeed, Staff Rule 6.2(j) and (k) on review of decisions relating to sick leave reads: 13
 - 6.2 (j) Where further sick leave is refused or the unused portion of sick leave is withdrawn because the Secretary-General is satisfied that the staff member is able to return to duty and the staff member disputes the decision, the matter shall be referred, at the staff member's request, to an independent practitioner acceptable to both the United Nations Medical Director and the staff member or to a medical board.
 - (k) The medical board shall be composed of:
 - (i) A medical practitioner selected by the staff member;
 - (ii) The United Nations Medical Director or a medical practitioner designated by the United Nations Medical Director; and
 - (iii) A third medical practitioner, who shall be selected by agreement between the other two members and who shall not be a medical officer of the United Nations.
- 46. Contrary to Ms. Bezziccheri's daims, the rescission for procedural reasons ordered by the UNDT did not entaie Tj ET **Q**6 0 0 [(0.24 192cm BT 42 0 0 46 143i) Tj ET**Q** 0.q 0.9998 -836 ve

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unresolved then, as found

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53. The appeal is dismissed and Judgment No. UNDT/2019/012

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