

Case No. UNDT/NY/2020/022

Judgment No. UNDT/2021/068

20. The Inter-Organization Agreement, at para. 1(b), provides that does not of itself give the staff member rights which are enforceable against an organization. It merely sets out what the organizations will normally do. The agreement can only be enforced to the extent that either the organizations have included appropriate provisions in their administrative rules or the parties have accepted to apply it in the individual

21. In this case, staff rule 4.9(a) provides that inter-organization movements shall be governed by an inter-organization agreement. Further, as memorandum addressed to UNDP dated 3 November 2015 and one addressed to the Applicant dated 5 November 2015 show, UN Women agreed to release the Applicant to UNDP on secondment in accordance with the Inter-Organization Agreement. Therefore, the terms and conditions of the Inter-Organization Agreement apply in this case.

22. Paragraph 2(d) of the Inter-Organization Agreement follows:

organization to another for a fixed period, normally not exceeding two years, during which the staff member will normally be paid by and, except as otherwise provided hereafter, be subject to the staff regulations and rules of the receiving organization, but will retain his or her rights of employment in the releasing organization. The period of secondment may be extended for a further fixed period by agreement among all the parties concerned.

23. Paragraph 9(a) provides that with the releasing organization will be suspended until the expiry of the agreed period of secondment.

24. In *Tran Nguyen* UNDT/2015/002, the plain

Case No. UNDT/NY/2020/022

Judgment No. UNDT/2021/068

Statute, to set an amount of compensation that the Respondent may elect to pay as an alternative to the rescission of the contested decision.

40. As the Appeals Tribunal has stated, *in-lieu* compensation, an alternative to

have received, had the illegality . The Appeals Tribunal further held that the amount of *in-lieu* compensation will essentially depend on the circumstances of

discretion in a reasonable way following a principled approach (see *Ashour* 2019-UNAT-899, paras. 20-21).

41. Considering that the Applicant joined the Organization on an one-year fixed-term appointment in December

date of payment. An additional five per cent shall be applied to the United States Prime Rate 60 days from the date this Judgment becomes executable.

(Signed)

Judge Joelle Adda

Dated this 10th day of June 2021

Entered in the Register on this 10th day of June 2021

(Signed)

Nerea Suero Fontecha, Registrar, New York