Introduction

1. The Applicant, a former staff member of the United Nations Children's Fund ("UNICEF"), contests the decision to separate her from service due to the abolition of her post, the decision to separate her while she was on sick leave, and the decisions not to select her for posts for which she had applied.

2. She asks the Tribunal to rescind the decision to separate her from service,

half of 2011, she enquired several times about the outcome of these selection processes, highlighting her qualifications and experience.

7. On 8 April 2011, the Applicant received a letter of separation with effect on 31 May 2011.

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those staff members who had not been reassigned would be extended. Further, the abolition of the posts of two of the Applicant's colleagues was postponed until completion of the restructuring. Her separation from service was therefore premature and unlawful;

Merits

d. The abolition of posts was not undertaken in a transparent and fair manner. UNICEF did not make sufficient efforts to secure alternative employment for the Applicant and failed to treat her with due care, though she was entitled to the rights and benefits conferred to staff on abolished posts under UNICEF administrative instruction CF/AI

management evaluation of this decision within 60 days, as required by staff rule 11.2(c);

b. The letter of 1 December 2010 was a formal notice of termination, as foreseen under sections 9.4 and 14 of UNICEF administrative instruction CF/AI/2010-001. No further decision was made regarding this matter. Therefore, the distinction drawn by the Applicant between the decision to slate her post for abolition and the decision to abolish her post is moot;

c. The way in which the Organization structures its operations, including the abolition of posts, is not subject to appeal by the Applicant as it does not affect her contractual rights;

d. In rejecting her application for suspension of action, the Tribunal considered in Order No. 90 (GVA/2011) that the email of 21 May 2011 did not contain any challengeable administrative decision;

e. The Applicant did receive the response to her inn F,-O SiéF-lr3hRéc8éélMc8T f 3Flcé,p-é

Section in order for an independent specialist to r

"uph[e]ld and carr[ied] through the abolition of her post on the initially suggested date".

35. To consider this claim, it is worth recalling the r

38. The letter of 1 December 2010 stated:

> I regret to inform you that due to necessities of service the post you currently encumber is among the posts slated for abolition with effect on 31 May 2011.
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> …
>
> In accordance with [CF/AI/2010-001], during the period of notice served to you by this letter, you are expected to apply for all available posts for which you believe you have the required competencies.
>
> …

title to the fact that her post would be abolished with effect from 31 May 2011

in the new structure" (see annex 32 to the application, p. 1), the decisions not to shortlist her for "two Communications posts", and the decision not to consider her "for the many posts outside the new structure" (see annex 32 to the application, p. 2). In identifying the remedies sought (see annex 32 to the application, p. 5), the Applicant referred to three specific P-3 posts: Interactive Marketing Specialist, Marketing Specialist and Customer Service Specialist.

50. In addition, in the document entitled "Description of the context of the decision, relevant facts, documents and other information important in the context of the request for evaluation" which she appended to her initial request for management evaluation, the Applicant referred to the decision not to select her for "two re-profiled positions in the new structure". She also referred to the decision not to shortlist her for two Communication posts.

51. As is clear from the wording of the letter of 12 July 2011 responding to the Applicant's 29 May 2011 request for management evaluation, the Administration reviewed the selection processes in relation to all 30 posts for which she had applied, both within and outside PFP.

52. In the motion filed in response to Order No. 147 (GVA/2012) and at the hearing of 26 November 2012, the Applicant explained that she did not remember when she had received the letter of 12 July 2011 and she argued that it was for the Respondent to prove that she had indeed received it on 14 July 2011.

53. On the one hand, the Tribunal understands that, more than a year after the events, the Applicant no longer remembers when she received the letter of 12 July 2011. On the other hand, the Tribunal has no doubt that the statement in her application of 17 October 2011, made only a little over three months after the receipt of the letter, accurately reflects the chronology of events. According to this statement, the letter in question was delivered on 14 July 2011. This date matches the dispatch date of the email to which the letter of 12 July 2011 was attached and a copy of which was produced by the Respondent. No further evidence is needed.

54. The Applicant also submitted that 18 July 2011 was the "effective date of receipt of the complete rejection" of her request for management evaluation and

> office and requested to seek treatment from a duly qualified medical practitioner. The staff member shall comply promptly with any direction or request under this rule.
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> …
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> Review of decisions relating to sick leave
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> (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.

66.

> The staff member is entitled to seek a review of the matter, in which case it is referred to another medical practitioner or to a medical board acceptable to both the United Nations Medical Service and the staff member.

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