JUDGMENTS and ORDERS

OF THE NATO ADMINISTRATIVE TRIBUNAL

2025

North Atlantic Treaty Organization
B-1110 Brussels - Belgium

Judgments of the NATO Administrative Tribunal

2025

43rd session (11 April 2025)

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2025

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AT(TRI-O)(2025)0002 Case No. 2024/1398	Appellant	*v.*	NAPMA
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North Atlantic Treaty Organization
B-1110 Brussels - Belgium

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

16 May 2025 AT-J(2025)0001

Judgment

Case No. 2024/1394

Appellant

v.

NATO Communications and Information Agency
Respondent

Brussels, 8 May 2025

Original: English

Keywords: termination after probation; discretionary decision; procedural flaw; pre-contractual obligations.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louse Otis, President, Ms Seran Karatari Köstü and Mr Thomas Laker, judges, having regard to the written procedure and further to the hearing on 11 April 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter the "Tribunal") has been seized of an appeal, dated 19 July 2024 and registered on 25 July 2024 as Case No. 2024/1394, by [appellant], against the NATO Communications and Information Agency (NCIA). The appellant contests the termination of his assignment at the end of an extended probationary period and requests, *inter alia*, compensation equivalent to 23 months of salary, repatriation costs as well as compensation for moral damages.

2. In its answer, dated 24 October 2024 and registered on 4 November 2024, the respondent invites the Tribunal to reject the appeal as devoid of legal merit.

3. The appellant's reply, dated 30 November 2024, was registered on 6 December 2024. The respondent's rejoinder, dated 4 February 2025, was registered on 7 February 2025.

4. An oral hearing was held on 11 April 2024 at NATO Headquarters and by videoconference in part. The Tribunal heard the appellant's statement and arguments by his representative and by representatives of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

5. The background and relevant material facts of the case may be summarized as follows.

6. On 8 December 2022, the appellant received a tentative job offer for a position he had applied to at NCIA. This position required fitness for military deployment.

7. On 9 January 2023, the appellant underwent the mandatory pre-employment medical examination. In an email of 19 January 2023 to NCIA, the competent medical advisor from [external medical provider] assessed the appellant, who is a corpulent person, to be "fit for his job not for military deployment". The appellant was not informed about these limitations of his suitability.

8. Also on 19 January 2023, NCIA Contract Management was informed that the appellant had to undergo a "further stress test, as required when someone's BMI is outside of the requirements set for NATO recruitment/deployability".

9. On 24 March 2023, a reminder was sent to NCIA stating, *inter alia*, that there had been no reply "regarding [the appellant's] requirement to re-sit the stress test as instructed by our medical provider. Are you content to make the offer of employment on

the caveat that [the appellant] should undertake another stress test within 3 months of joining?"

10. On 4 April 2023, the appellant was offered a definite duration contract effective 1 June 2023 to 31 May 2026, including a probationary period until 30 November 2023. The appellant accepted this offer which did not include any caveat or any reference to any other medical matters.

11. Having successfully started his assignment on 1 June 2023, the appellant was informed of the necessity of the said stress test on 11 August 2023.

12. On 17 October 2023, the appellant tried to pass the test, including an electrocardiogram. However, the test needed to be stopped and was not successfully completed.

13. In light of this failure, on 29 November 2023 the appellant's probationary period was extended for a further 6-month period, based on the expectation that such a measure "will give [the Appellant] the time to work on improving [his] level of physical fitness in order to reach the level required to pass the medical test as defined in [his] job description."

14. On 9 January 2024, during his regular annual medical examination, the appellant referred to allergic reactions after his first test on 17 October 2023 and was advised to seek an alternative test from a private cardiologist.

15. On 3 April 2024, the appellant again took but did not pass the stress test.

16. On 23 May 2024, the appellant was informed of the NCIA's General Manager's decision of 9 May 2024 to terminate his employment, effective 30 June 2024, on grounds of his continued inability to reach the minimum required medical standard for his position to warrant confirmation of his contract of employment.

17. On 19 July 2024, the present appeal was submitted.

C. Summary of parties' contentions, legal arguments and relief sought

(i) The appellant's main contentions

18. In the appellant's view, based on the legal doctrine of estoppel NCIA was estopped from terminating the contract on grounds that the appellant was unable to fulfil the medical requirements for his position.

19. Further, the appellant alleges that NCIA failed to adhere to its own internal laws.

20. In addition, the appellant complains that NCIA failed to exercise its duty of care, to act in good faith, and to respect his dignity.

21. Finally, in the appellant's view NCIA did not apply the principle of good administration when not helping him to secure the correct medical assistance.

22. As remedies, the appellant requests 23 months' salary (about EUR 150,000), compensation for unused leave, repatriation costs, reasonable legal fees, and compensation for the pain and suffering caused to him by the unlawful decision making.

(ii) The respondent's main contentions

23. The respondent believes that NCIA conducted the assessment of the appellant's unfitness in line with NATO's requirements.

24. In the respondent's view, NCIA exercised reasonable discretion and met all procedural requirements when deciding that the appellant was unsuitable for the position at stake.

25. Regarding remedies, the respondent does not see a causal link between the termination decision and any harm or detriment. In the respondent's view, the non-confirmation gives no entitlement to damages, as the purpose of the probationary period is to evaluate the staff member's suitability. Finally, the respondent clarifies that NCIA does not grant "buy-out" of untaken leave to its staff.

26. The respondent requests dismissal of the appeal.

D. Considerations and conclusions

(i) Admissibility

27. Pursuant to Art. 1.4 of Annex IX to the Civilian Personnel Regulations (CPR), a party may lodge an appeal directly with the Tribunal where the contested issue is the result of a decision taken directly by the Head of a NATO body. This is the case here, as the General Manager who signed the contested decision is the Head of NCIA.

28. Also, the appeal was filed within the 60-day timeframe of Art. 6.3.1 of Annex IX to the CPR between notification of the contested decision (23 May 2024) and submission of the appeal (19 July 2024).

29. Therefore, the appeal is admissible.

(ii) Merits

30. At the outset, the Tribunal reiterates and confirms its established jurisprudence regarding the scope of judicial review of contract termination at the end of a probationary period, pursuant to which:

> The probationary period allows the Organization to decide whether the staff member indeed has the professional qualifications and capabilities, but also whether the person fits in his or her job in the Organization. Therefore, decisions concerning appointments, and *a fortiori* decisions concerning the confirmation of the appointment at the end of the probationary period, are within the discretionary power of the Head of the Organization […].
>
> [D]ecisions in the exercise of the discretionary powers are subject to only limited review by the Tribunal. The Tribunal can only interfere if the decision was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority. (Case No. 2023/1379, Judgment of 16 July 2024, paragraphs 20 and 21)

Based on these principles, the Tribunal finds the decision to terminate the appellant's assignment at the end of the extended probationary period to be legally justified. However, the Organization's pre-contractual approach towards the appellant did not meet the necessary standards of fairness and transparency. The Tribunal will address these issues in turn.

Termination decision

31. The Tribunal recalls that the position at stake required its incumbent to be deployable within the meaning of NATO rules. ACO Directive 083-003 of 26 July 2021, in its Annex A at paragraph 1 e), provides that a Body Mass Index (BMI) of greater than 31 may disqualify a staff member in this respect, *inter alia,* if it is combined with an insufficient cardio-respiratory capability, which obviously can only be excluded by taking a stress test electrocardiogram.

32. As a matter of fact, the appellant's BMI exceeded 31 at the first medical examination on 9 January 2023 and afterwards. Also, it is noted that the appellant at no time before or during his assignment passed the indispensable stress test. Thus, the Tribunal cannot but observe that the appellant failed to meet the medical requirements for confirming deployability.

33. The appellant's efforts to shift the responsibility for his failure to the Organization are without merit. ACO Directive 083-003 paragraph 2-6 unmistakably clarifies that it is civilian staff who are responsible, *inter alia,* for "[t]aking all possible measures to maintain their medical fitness and suitability for deployment," and "…complying with request of their respective HONB Medical Consultant or CHRM when a follow-up medical examination is required".

34. Having been informed accordingly on 11 August 2023, the appellant was or must have been aware of the necessity to pass the stress test for the future of his assignment. Having failed to do so on 17 October 2023, he was even granted an extension of his probationary period for the only purpose of giving him another chance to fulfil the medical requirements. Unfortunately, this aim was not achieved on 9 January 2024, nor on 3 April 2024. Factually, the appellant had more than 8 months to pass the test or reduce his BMI. Regardless of the grounds for his aversion to many types of medical examinations, under these circumstances, the appellant's personal frustration of being left alone for an electrocardiogram does not override his personal responsibility to follow [external medical provider]'s advice to find a private cardiologist and to take the test elsewhere.

35. Given the clear wording of the quoted rules, there is no room for resorting to alleged violations of general principles like the duty of care, the obligation to act in good faith, or the principle of good administration. These principles are mainly supposed to fill *lacunae* within the written law*,* or to help with interpretation of unclear rules. This is not the case here. Also, there are no indications that NCIA did not respect the appellant's dignity while insisting on the fulfilment of the requirements of his position. That said, the Tribunal recalls that NCIA took remarkable measures to keep the applicant on board, like the extension of the probationary period and the offer to take the stress test at a private cardiologist's office.

36. The legal doctrine of estoppel does not support the appellant's claim. As the appellant was under probation anyway, there is no reason to believe that he relied to his detriment on the firm offer which, unfortunately, did not indicate the additional medical requirements at stake. Rather, during this period he was employed and decently paid.

37. Finally, the contested decision is in line with the internal law of the Organization. Pursuant to the applicable rules, it lies within the discretion of NCIA to confirm or to terminate the contractual relation at or before the end of the probationary period (see NCI Agency Directive 2.1 on Contract Policy, effective 1 January 2013, paragraph 4.4[1]). Considering the lack of a basic requirement for the position at stake, NCIA had little other choice than to terminate the assignment, since an extension of the probationary period had already been granted to no avail. The necessary 30 calendar days' notice (see Article 10.1 of the CPR) was respected. The Tribunal does not see any other error of fact or law in this respect.

Pre-contractual approach

38. The Tribunal recalls that the firm offer for the position at stake which the appellant accepted on 4 April 2023 after having taken a pre-employment medical examination on 9 January 2023 did not refer to any further medical requirements regarding deployability. Further, it needs to be noted that NCIA declined to include a caveat on this, despite having been reminded accordingly by a competent HR officer. It follows that NCIA, regardless of its motives, knowingly sent an incomplete job offer to the appellant.

[1] "The first six months of a definite duration contract of more than one years' duration are considered a probationary period. For contracts of definite duration with a duration of one year or less the first three months are considered a probationary period. At or before the end of the probationary period, the staff will be notified in writing that the contract is confirmed; or that it is terminated in accordance with the provisions therein; or in exceptional cases, that one further probationary period not exceeding six months is necessary".

39. The Tribunal does not speculate whether or not the appellant would have accepted the offer had he been explicitly informed about the necessity of additional medical examinations. However, by knowingly excluding this crucial element from the offer, NCIA factually deprived the appellant in part of the ability to make a well-informed decision. Such an approach includes a procedural flaw and negligence for which the respondent bears responsibility.

40. Pursuant to the Tribunal's jurisprudence, procedural flaws may justify compensation for non-material damage even where the underlying contested decisions are not illegal (see Judgment of 23 February 2024, Joined Cases Nos. 2023/1354 -1376). In the present case, the appellant's decision to accept the (incomplete) offer had serious consequences for him and his family, considering, e.g., that they had to move from a foreign continent to a country with a different culture and language only to return after a single year. After the unsuccessful end of the probationary period, problems of finding appropriate work arose, leaving the appellant in an overall instable situation. Therefore, the Tribunal finds it appropriate to award compensation in this respect.

E. Costs

41. Article 6.8.2 of Annex IX provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

42. The Tribunal finds that there were sufficiently good grounds for the appeal. The appeal being successful in part, respective reimbursement of legal fees is justified.

F. Decision

FOR THESE REASONS

The Tribunal decides that:

- The respondent is ordered to pay the appellant EUR 12,000.
- The respondent is ordered to reimburse legal costs up to the amount of EUR 3,000 to the appellant.
- All other pleas are rejected.

Done in Brussels, on 8 May 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

3 June 2025 AT-J(2025)0002

Judgment

Case No. 2024/1395

Appellant

v.

NATO Airborne Early Warning & Control Programme Management Agency
Respondent

Brussels, 23 May 2025

Original: English

Keywords: twin-graded post; transition to Single Spine Salary (SSS) system.

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This judgment is rendered by a Panel of the North Atlantic Treaty Organization (NATO) Administrative Tribunal, composed of Ms Louise Otis, President, Ms Seran Karataru Köstü and Mr Thomas Laker, judges, having regard to the written procedure and further to the hearing on 11 April 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter "the Tribunal") has been seized of an appeal by [appellant] (hereinafter "the appellant"), against the NATO Airborne Early Warning & Control Programme Management Agency (hereinafter "NAPMA") dated 30 September 2024 and registered on 15 October 2024 as Case No. 2024/1395, seeking a revision of her post description, associated pay grade and current step, taking into account the performance of G12/B5 duties despite being at the G10/B4 grade since 2013, along with material compensation for the loss of income between the G12/B5 and G10/B4 grades from January 2013 to December 2023.

2. The respondent's answer, dated 11 December 2024, was registered on 19 December 2024. The appellant's reply, dated 10 February 2025, was registered on 11 February 2025. The respondent's rejoinder, dated 13 March 2025, was registered on the same day.

3. An oral hearing was held on 11 April 2025 at NATO Headquarters and by videoconference in part. The Tribunal heard the appellant's statements and arguments by her representative, Mr D, and by representatives of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

4. The appellant joined NAPMA on 15 April 1991 as a B3 secretary. After 21 years of service, in 2012, the appellant was selected for a newly created post at B4 level (Senior Administrative and Contracting Assistant).

5. In January 2013, the appellant obtained a Level-A warrant allowing her to purchase goods and services up to 10,000 EUR. Further, in 2018, she was issued a Level-B warrant increasing such purchases to 20,000 EUR.

6. From 2013 until 2021, the appellant performed duties within the scope of the additional financial responsibility she had acquired, without her job description being updated.

7. Following the appellant's first initiative for evaluation of her post description in 2021, on 9 September 2021 a new post description, reflecting the actual duties carried out, was created and internally approved. However the title and grade remained unchanged.

8. On 13 April 2023, the appellant submitted a request to re-evaluate her post description along with the associated pay grade.

9. As a change applied to NAPMA's Peacetime Establishment (PE), following NAPMA management's recommendations, on 20 November 2023, the NAPMO Board of Directors (BoD) approved all proposed changes, including the re-grading of the appellant's post as G10/12-B4/B5 effective 1 January 2024. On 29 February 2024, the appellant was notified of the revised post description and the twin-grading of her post as G10/12-B4/B5 (with the next step increment date set at 1 January 2025). The appellant's step increment was also transitioned from the ABCL system to the new Single Spine Salary (SSS) system.

10. The appellant agreed with the promotion and the new post description; nevertheless, she requested "Step 29" as her step assignment; however, the respondent followed relevant policy and the rule of a minimum 4% increase, and her step was assigned as "Step 23".

11. On 21 March 2024, the appellant submitted a request for administrative review of the decision to re-grade the post to a twin-graded post and her step assignment, and claimed damages for loss of income since 2013.

12. On 22 April and 20 June 2024, two mediation sessions were conducted, without a successful outcome. On 1 July 2024, the appellant's request for administrative review was rejected.

13. On 24 July 2024, the appellant submitted a complaint, which was dismissed on 21 August 2024 by the NAPMA General Manager (GM).

14. On 30 September 2024, the appellant submitted the present appeal.

C. Parties' principal contentions, legal arguments, and relief sought

(i) The appellant's main contentions

15. The appellant claims that, since 2013, she has consistently performed duties beyond her official post description – particularly in independently contracting through warrants – and that her post should have been classified at the B5 grade. She maintains that the BoD did not approve her post description as she had requested. She argues that the twin-grade adjustment did not constitute formal recognition of the higher-level duties she had carried out. Although she was promoted to the B5 grade within the contested twin-graded post, this promotion was based on her experience and performance, rather than an acknowledgment of the B5-level tasks she had been performing while officially graded at B4.

16. The appellant states that, given her individual circumstances, she requested an exception to the NATO-wide policy for a higher step assignment, and referred to the CPR rule which allows for discretionary application. She claims that it is unclear why such an exemption was not granted in her case.

17. The appellant seeks compensation for loss of income, claiming that she had undertaken B5-level duties from January 2013 to December 2023, despite being at B4 grade. The appellant claims that until 2021, there was no official system for performance reviews through which she could voice her concerns. She also claims that she was unable to submit a request and/or complaint because of alleged bullying and abuse of power by her supervisor, fear of losing her job, and the idea that additional tasks were covered under the post description's "performing other related duties assigned" clause.

18. The appellant, inter alia, requests the Tribunal to issue directions to the respondent regarding the above-mentioned requests.

(ii) The respondent's main contentions

19. The respondent contests the admissibility of the appeal insofar as it is addressed against the BoD decision that created the twin-graded post. It also asserts inadmissibility by claiming that the appeal is not directed against an act or omission adversely affecting the appellant’s working conditions, but only favourably.

20. The respondent states that post descriptions and gradings are based on position needs, not individual qualifications. It also maintains that the re-grading process complied with established rules. The final decision on twin grading rests solely with the BoD, and the respondent cannot unilaterally alter the grading.

21. The respondent maintains that, when determining the appellant’s step, it followed NATO-wide policy, mandating a minimum 4% salary increase, to ensure common practices and fairness between similar positions throughout the Agency.

22. The respondent also asserts that twin grading or upgrading a post does not entitle the personnel filling that particular position to retrospective compensation of any kind. It denies that the appellant had performed B5-level duties since 2013, and also notes that the appellant’s promotion to B5 in the twin-graded post was based on her experience and performance, but does not imply that the post was previously B5.

23. The respondent also notes that the appellant did not raise any claims until 2021. Regarding the appellant’s allegations against her supervisor, it emphasizes that although NATO’s harassment policy ON(2020)0057 was not yet in force at the time, any allegations of misconduct or bullying would still have been taken seriously. It further points out that alternative avenues – such as escalation to higher management, or submitting requests under Article 24.1(f) of the CPR for a relative allowance or compensation – were available.

24. The respondent requests the Tribunal to declare the appeal inadmissible and dismiss the case, or alternatively, to reject the appellant’s claims in their entirety as unsubstantiated.

D. Considerations and conclusions

(i) Admissibility

25. The respondent first contends that the appeal is inadmissible insofar as it is addressed against the decision of the BoD – a body of national representatives that is not represented in these proceedings – determining the post as twin-graded under an organizational change applied to NAPMA's Peacetime Establishment. This raises significant issues bearing on the Tribunal's capacity or authority to adjudicate the claims raised. For clarity and convenience, these will be addressed in connection with the Tribunal's consideration of the merits.

26. The respondent secondly argues that there has been no decision adversely affecting the appellant, as the contested decision was, in its view, entirely favourable. However, the appellant contends that she has been individually and adversely affected due to the incorrect classification of her post's grade. Among other points, she challenges the step assigned to her upon transferring to the new pension system and seeks material compensation for the resulting loss of income. As such, her claims are admissible.

(ii) Merits

27. In her requests for relief, the appellant asks the Tribunal to issue directions to the respondent to revise her post description, reclassify her twin-graded post to a B5 grade, adjust her current step, and calculate and compensate the loss of income resulting from her post remaining at B4, despite her having performed B5-level duties since 2013.

28. In this regard, it derives from Articles 6.2.1 to 6.2.3 of Annex IX to the CPR that the Tribunal is not entitled to issue directions requiring the respondent to do or to refrain from doing something. It is instead for the respondent to draw the appropriate conclusions from the operative part of the Tribunal's judgment regarding the legality or illegality of a contested decision and from the grounds on which it is based (cf. Case No. 2016/1079).

29. However, with her appeal to the Tribunal, the appellant introduces a set of arguments that in fact amount to a call for annulment of the respondent's decision on the evaluation of her post, the denial of material compensation for alleged loss of income, and the refusal to grant a higher step.

30. The appellant, firstly, contends that, since 2013, she has consistently performed duties that exceeded the scope of her post description and the B4 pay grade. She argues that, in light of the level of responsibility she assumed – including independently executing contractual actions under the authority of warrants issued to her – her position should have been graded as B5. She further states that her request in 2021 regarding re-evaluation of her post description was not for a twin-grade designation. According to her, the BoD's decision to approve a newly established twin-graded post (B4/B5) was made without her knowledge or consent. She maintains that her subsequent promotion from B4 to B5 within this twin-graded post did not constitute formal recognition of the higher-level duties she had already been performing; as such, it did not meet her request.

31. Based on the submitted documents – including the reports of the personnel board, the Terms of Reference (TOR) of the Policy and Finance Committee (PFC) and the BoD and approved decision sheets for the B4/B5 post description – it is noted that, in response to the appellant's 2023 request to re-evaluate her 2021 post description and associated pay grade, the Personnel Board met on 7 September 2023 and assessed the post's responsibilities within NAPMA's Peacetime Establishment. It is observed that with the justification of the appellant's supervisor and the Chief Programme Support Division, the General Manager approved the request to upgrade the post from G10 (B4) to G10/12 (B4/B5). As NAPMA Manpower Management only provides recommendations based on its Terms of Reference and PE changes further require the PFC's endorsement and the BoD's approval, the PFC, in its 24–25 October 2023 session, endorsed the recommendation to re-grade the post as a twin-graded post, and the approval was granted by the BoD during its 24–25 October 2023 session, accordingly.

32. The Tribunal recalls that the authorities involved in the evaluation of the proposed job descriptions and grading of the posts enjoy broad discretion (cf. Case No. 2016/1078); however, it points out that the above-mentioned procedure is not under the sole control of NAPMA Manpower Management. The Head of NATO body has neither the authority to determine, following negotiations with the staff member concerned, what grade would be most suitable for the post in question, nor the authority to change or rescind decisions taken by the NAPMO BoD. The NAPMA GM- acted appropriately based on the BoD's decision and, therefore, the Tribunal considers that it is not the GM's decision but the BoD's decision that constitutes the core of the appeal.

33. In Case No. 2020/1305, the Tribunal held that the BoD – a body composed of national representatives – is not represented in these proceedings and is not a NATO body within the scope of Article A(v)(a) of the Preamble to the CPR. However, despite not being competent to annul a decision of the BoD, the Tribunal may rule on such a decision's legality, as on that of all regulatory decisions by Heads of NATO bodies or by any other administrative authority, when a Head of a NATO body takes an individual decision implementing the BoD decision (cf. Case No. 2021/1335).

34. In this regard, it has been consistently concurred that a decision in the exercise of an organization's discretion is subject to only limited review by the Tribunal (cf.Case No. 885, paragraphs 33–37). The Tribunal can only interfere with the impugned decision if it was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts, or if there was an abuse of authority or manifest abuse of discretion. In view of this, the Tribunal has also consistently held that it will not substitute its own view for the organizations' assessments in such cases (cf. Cases Nos 2016/1090 and 2016/1095, Case No. 2021/1335).

35. The Tribunal observes that during the evaluation of the proposed job description and the grading of the post, a serious and coherent process was followed. It finds that the grading decision was properly made, that there was no abuse of power, and that there is no indication of arbitrariness. Moreover, the appellant's interests were also taken into account by the fact that she was promoted to B5 grade in the twin-graded post, considering her experience and prior service. It is established international civil service jurisprudence that, when allegations are made, it is the duty of those who make the

allegations, in this case, the appellant, to provide convincing proof. The appellant has failed to do so. Accordingly, the appellant's argument in this respect fails.

36. The appellant, secondly, disagrees with the step (Step 23) assigned to her despite her request for a higher step (Step 29), as a result of the transition of her step increment from the ABCL system to the new Single Spine Salary (SSS) system, following the BoD decision on twin-grading and her promotion to B5 as of 1 January 2024. Her request for a higher step is based on her assumption that if her post had been re-graded as B5, she would have progressed further along the pay scale. Instead, she reached the highest step in B4 grade under the ABCL system in 2017, and as a result, missed out on potential step increases that would have had a significant impact on her retirement pension. The appellant, therefore, maintains that, in light of the financial loss incurred, the higher step should have been granted as an exception to her case.

37. The respondent submits that the procedure for determining the step within the new grade is a process developed by NATO IS and is followed NATO-wide. The respondent maintained that AP-WP(93)7 (NATO-wide policy guiding step determination, particularly in cases of transfers) was slightly amended with the introduction of the Single Salary Spine. Based on AP-WP(2016)0010-REV2 (draft) dated 27 April 2021, in case of a transfer to a higher grade, the appointment at the SSS point shall be a minimum of 4% increments above the former point.

38. The appellant challenges the respondent's approach on two grounds. First, she refers to the phrase "minimum 4% increments", arguing that the use of the word "minimum" – rather than "maximum" – implies the possibility of higher increments. Second, she cites Chapter II, Article 4.2 of the CPR, which grants the Head of NATO Body (HoNB) the discretion to appoint at a higher step, and asserts that such an exception should have been applied in her case.

39. In response, the respondent explains that the 4% threshold is a strict guideline for determining salary step upon transfer, requiring that the new step be the closest equivalent that provides an increase of at least 4% over the previous salary. If the initial calculation results in an increase of less than 4%, the incumbent is granted the next higher step to meet the minimum threshold.

40. The Tribunal notes that Article 4.2 of the CPR, invoked by the appellant, stipulates that members of the staff shall normally be appointed at the lowest step of their grade; however, the HoNB "may" recognize exceptional qualifications and skills and appoint at a higher step if the candidate in question can demonstrate possession of high level training and proficiency or specific experience which is directly relevant to the duties attached to the post in question, also taking into account the previous remuneration package. It follows that the HoNB has broad discretion whether to recognize exceptional qualifications and skills and appoint at a higher step, or not.

41. The respondent states that the appellant's post was one of five posts re-graded at the same time and that NATO HQ IS Executive Management HR was consulted to ensure consistency in applying the transfer procedures from the ABCL scales to the SSS. Although Article 4(2) of the CPR allows the HoNB to appoint at a higher step in recognition of exceptional qualifications, he chose to follow the recommendation to apply

the same rationale to all cases. This was done to ensure fairness between comparable positions and maintain a uniform approach across the Agency.

42. Consequently, as to the appellant's step increment, it is clear from the records that it was determined under the applicable NATO-wide policy and guidance. Although the policy was still a draft document, its application was justified by the need to ensure consistency and uniform treatment across the Agency when transferring staff from the ABCL salary scales to the SSS. The Tribunal points to the fundamental principle of international administrative law that similarly situated staff members must be treated consistently and notes that, as confirmed by the respondent during the hearing, the same approach was applied in multiple cases similar to the appellant's. The Tribunal considers that the respondent's decision falls within its discretionary authority, was made in accordance with applicable rules and policies, and does not reflect any abuse of authority. The appellant's submission in this regard must be rejected.

43. The appellant, thirdly, seeks material compensation for alleged loss of income, asserting that she consistently performed duties commensurate with the B5 grade from January 2013 to December 2023, while being formally classified and remunerated at the B4 level. Accordingly, she claims entitlement to compensation representing the difference between the remuneration – including salary, allowances, and step increments – actually received since 2013 and the remuneration she contends would have been payable had her post been formally graded as B5 to reflect the functions she performed.

44. The respondent contests this assertion, maintaining that the appellant did not perform B5-level duties throughout the referenced period. It further argues that neither the twin-grading nor upgrading of a post retroactively reclassifies the position, nor does it give rise to any right to retrospective compensation. The designation of a post twin-graded as B4/B5 indicates that while the duties outlined in the post description align with B4-level responsibilities, the B5 classification merely reflects a potential career advancement contingent upon the incumbent's experience and demonstrated performance. In the present case, the appellant's professional experience and performance were duly recognized through her promotion to the B5 grade.

45. The Tribunal recalls Article 4.6 of the CPR, which provides that "the appointment of a member of the staff is effected by the signature of a contract specifying the date from which it takes effect". In accordance with this provision, the Tribunal considers that financial adjustments take effect from the date on which the new duties are formally assumed – in this case, on 1 January 2024. Accordingly, the reclassification of the appellant's post as twin-graded does not give rise to any retroactive financial entitlement. Furthermore, the appellant's promotion to grade B5 was granted in recognition of her experience and performance as of that time, and does not constitute a retroactive regrading of her prior position. In light of the foregoing, the appellant's claim for compensation is deemed to lack a sufficient legal basis.

46. It follows from the foregoing considerations that the present appeal must be dismissed in its entirety.

E. Costs

47. Article 6.8.2 of Annex IX to the CPR provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

48. The appeal being dismissed, no reimbursement of costs is due.

F. Decision

FOR THESE REASONS,

The Tribunal decides that:

- The appeal is dismissed.

Done in Brussels, on 23 May 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

4 August 2025 AT-J(2025)0003

Judgment

Case No. 2024/1398

Appellant

v.

NATO Airborne Early Warning & Control Programme Management Agency
Respondent

Brussels, 8 July 2025

Original: English

Keywords: definite duration contract; non-renewal; harassment; disciplinary proceedings.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louse Otis, President, Mr Thomas Laker and Mr Fabien Raynaud, judges, having regard to the written procedure and further to the hearing on 26 June 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter the "Tribunal") has been seized of an appeal, dated 29 November 2024 and registered on 3 December 2024 as Case No. 2024/1398, by [appellant] (the appellant), against the NATO Airborne Early Warning & Control Programme Management Agency (NAPMA, the respondent). The appellant challenges the disciplinary decision of 1 October 2024 in which the General Manager (GM) of NAPMA sanctioned him for alleged acts of sexual harassment, as well as the decisions of 30 September 2024 and 31 October 2024 pertaining to the non-renewal of his contract and the dismissal of the Administrative Review/mediation request.

2. In its answer, dated 5 March 2025 and registered on 11 March 2025, the respondent invites the Tribunal to reject the appeal as inadmissible and without merit.

3. The appellant's reply, dated 9 April 2025, was registered on 17 April 2025. The respondent's rejoinder was dated 22 May 2025 and was registered on that same day.

4. An oral hearing was held on 26 June 2025, at NATO Headquarters. The Tribunal heard the appellant's statement and arguments by his representative and by representatives of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

5. The background and relevant material facts of the case may be summarized as follows.

6. The appellant was a high ranking official of the Agency. He had been working for NAPMA on a three-year definite duration contract. Although his contract was supposed to end on 31 October 2024, the appellant explains that discussions had taken place to extend it for three additional years. However, despite the appellant's expectations, the decision to offer an extension was never adopted by the Personnel Board.

7. On 2 November 2023, the appellant and other NAPMA colleagues had dinner at a restaurant in Italy with a contractor's staff members. The appellant was seated next to the alleged victim, Ms K, a junior employee of the contracting company. The appellant and other NAPMA colleagues met their contractor colleagues, including Ms K, again on 3 November 2023.

8. Between 6 and 10 November 2023, exchanges took place between NAPMA colleagues and the GM as well as the GM and the contractor about the appellant's behaviour towards Ms K.

9. The behaviour at issue included the appellant's invitation to Ms K for drinks when she would be on her own or when they both would be alone. He also leaned in to converse with her and made physical contact by placing his hand on her back between her shoulder blades.

10. On 15 November 2023, the GM discussed the event with the appellant in his office.

11. On 29 November 2023, Ms K's legal firm submitted a complaint on her behalf denouncing the appellant's conduct.

12. On 5 December 2023, a meeting took place between the GM and Ms K's superior and a memorandum about the meeting was issued on 6 December 2023 in which Ms K describes the behaviour of the appellant during the dinner that was the object of the disciplinary proceedings. Interviews with NAPMA colleagues who were present at the dinner took place on 7 December 2023.

13. On 8 December 2023, the GM informed the appellant about the complaint and the initiation of an investigation against him. The object of the investigation was to consider whether the appellant's conduct breached the NATO Policy on the Prevention, Management and Combating of Harassment, Bullying and Discrimination in the Workplace and/or the NATO Code of Conduct. That same day, the appellant was suspended from his duties for the duration of the investigation.

14. The appellant sent an email and a letter of apology to Ms K's superior on 11 December 2023.

15. HR appointed an independent external investigator on 14 December 2023, and informed the appellant of such appointment on 20 December 2023. The appellant sent his observations to the investigator on 6 January 2024.

16. The appellant was interviewed by the investigator on 21 March 2024 and other witnesses were heard between January and March 2024.

17. On 16 April 2024, the appellant was informed that his contract would end on 31 October 2024. In this regard, the GM wrote to the appellant that "[a]s no final decision has been made on your contract extension […] your present contract will end on 31 October 2024".

18. On 25 April 2024, the investigator delivered its report to NAPMA. On 1 May 2024, the appellant was suspended with emoluments by the GM. He was also informed that he would be subject to a Disciplinary Procedure in accordance with Article 60.2 of the NATO Civilian Personnel Regulations (CPR). The appellant had been informed of this on 2 May 2024 during a meeting in person.

19. On 7 May 2024, NAPMA referred the establishment of the Disciplinary Board (DB) to NATO HQ. According to the respondent, the Board was chaired by a representative from NATO HQ in order to fulfil the requirement of impartiality and to avoid any conflict of interest.

20. On 10 May 2024, the GM issued a disciplinary report pursuant to Article 5.2 of Annex X to the CPR describing some allegations as probable and proposing a disciplinary sanction of suspension in accordance with Article 59.3(d) of the CPR.

21. The Disciplinary Report of 10 May 2024 highlights, in addition to the appellant's behaviour towards Ms K, that he contacted one of the witnesses on 20 December 2023 using the following terms: "I was thinking about you and the girls, you must be gunlocked at home with the girls". He also sent a LinkedIn connection request to another witness, despite knowing him since 2017, after having been advised of the formal investigation. The Report qualifies these two actions taken by the appellant as in breach of the NATO Code of Conduct.

22. The appellant submitted his response to the Disciplinary Report on 3 June 2024 and, on 2 August 2024, requested an Administrative Review (AR) to challenge the suspension decision of 1 May 2024.

23. On 13 August 2024, the appellant was notified that he should initiate out-processing and separation formalities, in line with the previous notification of 16 April 2024.

24. On 26 August 2024, the appellant filed an email request for an AR of the suspension decision of 1 May.

25. On 28 August 2024, the appellant received a negative response to his request for an AR because the suspension decision had not been challenged within the prescribed deadline of 30 days after the decision was notified.

26. On 1 September 2024, the appellant requested a three-month extension of his contract (until 31 January 2025) to provide enough time for him to search for a job and a home in the event that it was decided not to extend his original contract for an additional three years.

27. The DB convened on 17 September 2024. After the appellant was heard by the DB, on 17 September 2024, the latter made its recommendations on 26 September 2024.

28. On 30 September 2024, NAPMA denied the appellant's request for a three-month extension of his contract and further reiterated that the appellant was to initiate out-processing formalities as requested by the out-processing notification.

29. On 1 October 2024, the GM sanctioned the appellant on the basis of a violation of Article 12.1.4 of the CPR and the NATO Code of Conduct. In this regard, the appellant was suspended temporarily (from 1 October until 31 October 2024) and 10% of his emoluments were withheld in accordance with Article 59.3(d) of the CPR.

30. On 14 October 2024 the appellant submitted a complaint against the decision of 30 September 2024 denying his request for a three-month extension of his contract and requested mediation in relation to the end of his contract and the lack of proper notification. On 30 October 2024, the appellant also asked the GM for access to several documents and for clarification about the findings of the DB and the GM justifying the disciplinary decisions.

31. On 31 October 2024, NAPMA rejected the appellant's complaint dated 14 October 2024 and denied his request for mediation in relation to the notification of the end of his contract on the grounds that the appellant did not contest a formal decision (Articles 2.2 and 4.1. of Annex IX to the CPR), his request to appoint a third party to make a decision regarding his proposal fell outside the scope of mediation, and the proposed mediation was not a work-related dispute.

32. On the same day, the out-processing of the appellant was completed in accordance with previous notifications.

33. On 11 November 2024, NAPMA acknowledged receipt of the appellant's email of 30 October 2024 and, on 18 November 2024, it denied the request for clarification and access to documents.

34. On 29 November 2024, the present appeal was submitted, challenging the decisions of 1 October 2024, 30 September 2024 and 31 October 2024.

C. Summary of parties' contentions, legal arguments and relief sought

(i) The appellant's main contentions

35. On the admissibility of the appeal, the appellant explains that the three disputed decisions, i.e. of 1 October 2024 concerning the disciplinary sanctions and of 30 September and 31 October 2024 concerning the end of his contract, undoubtedly adversely affect his situation and that they are admissible *ratione temporis*. The appellant also observes that he exhausted all internal remedies before lodging this appeal.

36. Furthermore, the appellant explains in his reply that the fact that in his previous legal actions he did not explicitly seek the annulment of the disputed decisions does not constitute a bar to the admissibility of the present appeal.

37. Finally, the appellant emphasises that the challenged decisions directly and immediately adversely affected his working conditions by suspending him, withholding 10% of his emoluments, not renewing his contract and not giving him the opportunity to adequately prepare for other pursuits.

38. On the merits, the appellant first explains that with respect to the decision of 1 October 2024 related to the disciplinary procedure, a breach of his right to a defence occurred. In particular, the appellant alleges that he did not have the opportunity to submit his observations before the GM adopted the disputed decision of 1 October 2024, in breach of Article 60.4 of the CPR.

39. The respondent further prevented the appellant from fully exercising his right to a defence by not giving him access to the DB's recommendations, thus contradicting a well-established practice within NATO to share DB recommendations with the accused person. Nor did the appellant have access to the report of the investigation or the statements of the witnesses.

40. In addition, the appellant explains that the process has not been impartial as the GM was both a direct witness in the disciplinary proceedings and the one that adopted the disputed decision.

41. Secondly, the appellant observes that NAPMA breached the principle of sound administration by failing to provide reasons for its decision as mandated by Articles 6.3 and 7.1 of Annex X of the CPR. In particular, the GM did not explain the content of the DB's recommendations on the basis of which the decision was made. Similarly, insufficient reasons were provided to justify the GM's decision to suspend the appellant.

42. The appellant further explains that the GM acted in breach of its duty of care *inter alia* by failing to take into account the personal interests of the appellant in making the decision, by failing to check on the well-being of the appellant during the 10 months of suspension, by failing to provide details about allegations made against the appellant and by failing to respect the appropriate procedure for the suspension that was ordered against the appellant.

43. The appellant also argues that NAPMA acted in violation of his right to have his affairs handled within a reasonable period of time in light of the lack of complexity of the case and of the fact that the entire procedure took 11 months to be completed.

44. Thirdly, the appellant argues that the disciplinary decision taken against him is based on a manifest error of assessment of the disputed facts. In particular, he explains that the alleged actions do not constitute acts of sexual harassment in terms of NATO policy.

45. Furthermore, the appellant explains that the approach taken by NAPMA, the "balance of probabilities" methodology, was insufficient to substantiate any allegations.

46. Finaly, the appellant argues that, in the alternative, the disciplinary sanctions adopted against him are disproportionate.

47. Regarding the decisions to terminate and to not renew the appellant's contract, the appellant explains that NAPMA acted in breach of Articles 5.5.1, 9.1. and 10.5 of the CPR and that it committed a manifest error of assessment.

48. The appellant also argues that NAPMA breached the principle of sound administration and did not abide by its duty to provide reasons or its duty of care, and that it violated the appellant's right to be heard in the adoption of these decisions.

(ii) The respondent's main contentions

49. On the admissibility of the appeal, NAPMA explains that the appellant did not contest the disciplinary decision made on 1 October 2024 in his request of 14 October 2024. Instead, the appellant requested a financial settlement and mediation in the event that no satisfactory solution could be found. The decision of 31 October was thus based on the ground that no formal decision had been contested by the appellant as required under Articles 2.2 and 4.1. of Annex IX to the CPR. As to the appellant's mediation request, the desired outcome would have been impossible to implement under the applicable provisions of the CPR.

50. In addition, the appeal is not directed against acts or omissions adversely affecting the appellant's working condition as provided under Article 2.1. of Annex IX of the CPR, but rather against the decision to suspend him and not to extend his contract.

51. For the above-mentioned reasons, the appeal should be considered inadmissible.

52. On the merits, NAPMA first explains, with respect to the disciplinary decision of 1 October 2024, that its obligations under the CPR as well as principles of due diligence and fair process in the disciplinary proceedings were fulfilled and that the appellant's right to be heard in a fair process was respected.

53. NAPMA further observes that the appellant's claims for the annulment of the decision of 1 October 2024 are unfounded and that the disciplinary decision complies with the CPR and meets the requirements of zero tolerance for sexual harassment as set out in the NATO policy.

54. Similarly, NAPMA explains that it did not act in breach of its obligations when terminating the appellant's contract and refusing to extend it.

D. Considerations and conclusions

(i) Admissibility

55. Regarding admissibility, the Tribunal first finds that the fact that the appellant did not explicitly seek the annulment of the disputed decisions in his previous legal actions cannot act as a bar to the admissibility of the present claim. In addition to the fact that it is clear to the Tribunal that this is what the appellant is seeking, this conclusion is further supported by the fact that Article 6.9 of the CPR provides for annulment as one of the possible remedies that could be sought by an appellant.

56. The Tribunal also notes that the appellant did exhaust internal remedies before lodging the present appeal when required, and that the 60-day deadline imposed by Article 6.3.1. of Annex IX of the CPR was respected.

57. Finally, the Tribunal is of the opinion that the disciplinary decision of 1 October 2024 as well as the decisions of 30 September 2024 and 31 October 2024 directly affect the appellant's working conditions in an adverse manner, as required under Article 2.1. of Annex IX of the CPR.

58. The appeal is therefore admissible.

(ii) Merits

59. By way of preliminary remarks, the Tribunal recalls that Article 3.2 of Annex X of the CPR provides that "[t]he grounds on which disciplinary action is taken must be specified and the staff members concerned informed of the grievances against them". Article 5.3 of the same Annex provides that the staff member "shall have 15 working days in which to submit written or verbal comments to the authority initiating the proceedings".

60. Article 5.4 of Annex X provides for a DB to be convened in the case of an action provided for in Article 59.3(d) of the CPR, as was the case in the present instance.

61. Furthermore, pursuant to Article 3.3 of Annex X to the CPR, sanctions that may be imposed under Article 59.3 "must take account of the scope and gravity of the fault (e.g. voluntary omission, serious negligence, whether or not premediated, deliberate harmful intention, etc.)".

62. In the context of the above-mentioned procedure, Articles 12.1.4. and 13.2 of the CPR provide for the standard against which the appellant's conduct must be measured for the purposes of a possible disciplinary action.

63. Article 12.1.4 provides that:

> Members of the staff shall treat their colleagues and others, with whom they come into contact in the course of their duties, with respect and courtesy at all times.
> (a) They shall not discriminate against them on the grounds of gender, race or ethnic origin, religion or belief, age or sexual orientation.
> (b) They shall not harass, bully or otherwise abuse another staff member.

Article 13.2 provides that:

> Members of the staff shall conduct themselves at all times in a manner compatible with their status as representatives of the Organization. They shall avoid any action or activity which may reflect adversely on their position or on the good repute of the Organization.

64. In addition, the behaviour of the appellant was assessed considering the NATO Policy on the Prevention, Management and Combating of Harassment, Bullying and Discrimination in the Workplace. In this regard, the Tribunal finds it important to recall that this policy, which complements, among others, the NATO Code of Conduct, clearly provides that it intends "to promote and foster a workplace that values fair treatment, trust and respect for others, with zero tolerance or condoning of inappropriate behaviour, including any form of harassment, bullying or discrimination, all of which are wholly unacceptable".

65. Turning to the allegations of the appellant, the Tribunal first finds that there is no evidence that the procedure that was followed and that led to the disciplinary proceedings and, ultimately, the non-renewal of the appellant's contract, did not take place according to the applicable rules.

66. The Tribunal observes in this regard that the investigation that was agreed upon on 15 December 2023 took place in accordance with the guidance contained in "Conducting workplace investigations" by ACAS. Similarly, nothing indicates that the disciplinary proceedings which were initiated in accordance with the decision of 1 May 2024 and which ended with the Disciplinary Report of 10 May 2024 were not undertaken in accordance with the applicable rules.

67. The Tribunal also finds the conclusions reached in Case No. 2021/1323 instructive:

> 60. The appellant requests production of the DB report dated 8 October 2020, which he considers essential for the defense of his rights. The respondent submits that the appellant's right of defense does not entitle him to access to the full text of the DB's report. The respondent refers to Annex X to the CPR, which outlines the disciplinary procedure and does not require the NATO body to disclose the DB report to a staff member.
>
> 61. The Tribunal indeed held in Case No. 2019/1286 that such communication is not foreseen in the CPR, but it also noted that the report was in that case communicated during the proceedings. The Tribunal further notes that DB reports frequently are provided to an affected staff member and play in important role in the Tribunal's understanding of a situation involving contested disciplinary actions. In the more recent Cases Nos. 2020/1289 and 2020/1301, the DB report was communicated to the appellant for his comments before the HONB took a disciplinary decision. In case No. 2017/1104 the DB report was provided to appellant once the appeal was lodged. In Case No. 2017/1105 the appellant had received the DB report and attached it to his appeal.
>
> 62. In case No. 2017/1104 the Tribunal held: International administrative law requires that an international organization provide reasons for actions adverse to a staff member sufficient to allow the staff member to understand the rationale or justification for the adverse action and, as appropriate, to contest it.

68. Furthermore, the Tribunal notes that the appellant had the opportunity to send his observations and express his position in the context of the disciplinary proceedings, as demonstrated by the evidence submitted to the Tribunal. Thus, the appellant submitted comments in writing on 3 June 2024, and he was heard by the DB on 17 September 2024. In addition, as mentioned by the appellant himself and reiterated by NAPMA, Article 6.3 of Annex X to the CPR does not impose an obligation on the respondent to share the recommendations of the DB with the appellant. Therefore, under the circumstances of the present case, the Tribunal finds that the requirements of Article 60.4 of the CPR are fulfilled.

69. The disciplinary decision of 1 October 2024 was based on the recommendations of the DB and was also adopted in accordance with the applicable rules, as provided in the CPR, and in light of the principles of good governance and the policy of zero tolerance for sexual harassment adhered to by NATO. No breach of mandatory procedural rules has been established by the appellant in this regard.

70. The DB is a mixed board that, pursuant to Article 6.1. of Annex X of the CPR, is composed of three members:

> the official responsible for personnel management or such other official as the Head of the NATO body may appoint (Chair), the Head of Division or independent service to whom the staff member is responsible(1), and a staff member nominated by the Staff Committee holding in so far as possible a grade not lower than the staff member who is the subject of disciplinary procedures.

71. The Tribunal observes that this is also true in terms of impartiality. The Tribunal finds that contrary to the appellant's arguments, no breach of such principle occurred in the present case. In fact, the respondent's recusal from the DB, enhanced the impartiality of the procedure rather than negatively affecting it. Such a recusal did not breach Article 6.1. of Annex X of the CPR. The Tribunal notes in this regard that the provision provides that the DB shall be composed of "the official responsible for personnel management *or* such other official as the Head of the NATO body may appoint (Chair)" (emphasis added).

72. Given the lack of apparent breach of applicable procedural rules and in the light of the weight that this Tribunal must grant to discretionary decisions, this Tribunal is not able to reach the conclusion that the decision of 1 October 2024 must be annulled. The Tribunal recalls in this regard, in line with its well-established case law that the appellant has not demonstrated that the decision was "taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was abuse of authority".[1]

73. The Tribunal also finds no indication of a breach by the respondent of the duty of care it owed to the appellant. On the contrary, the respondent acted with diligence in conducting the disciplinary proceedings. The appellant contests that his actions amounted to sexual harassment, thus alleging a "mistake of law". The Tribunal remarks that his undisputed actions were not only unwelcome and intrusive. In the circumstances of the situation, and given the appellant's position and seniority, they can be considered as harassment within the meaning of the NATO policy. Also, the appellant finds the sanction disproportional. In this respect, the Tribunal emphasizes that the 10% salary cut for one month is at a very low level within the scale of disciplinary measures.

74. Finally, the disciplinary proceedings, albeit lasting for a couple of months, did not exceed an appropriate time frame. Given the seriousness of the allegations and the appellant's seniority within NAPMA, an extremely thorough investigation was deemed necessary. Noting that the formal disciplinary proceedings lasted from 1 May 2024 to 1 October 2024, the Tribunal does not see a reason to award moral damages to the appellant, who received full pay during the whole process.

75. Regarding the decisions of 30 September 2024 and 31 October 2024 on the ending and non-renewal of the appellant's contract, the Tribunal similarly recalls its well-established case law, according to which:

> decisions concerning renewal or non-renewal of contracts are within the discretionary power of the Head of the Organization. It is only when a non-extension of contract

[1] NATO Administrative Tribunal, judgment of 5 November 2024, AT-J(2024)0022, paragraph 37.

> decision was taken without authority, if a rule of form or procedure was breached, if the decision was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority that the Tribunal will annul such a decision.[2]

76. The Tribunal also relies on the findings in Case No. 2019/1278:

> 46. This Tribunal has consistently held that decisions concerning renewal or non-renewal of contracts are within the discretionary power of the Head of the Organization. There is consensus among international administrative tribunals that a decision in the exercise of discretion is subject to only limited review by a tribunal. A tribunal would interfere with a non-extension of contract decision only if it was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority. Tribunals have also consistently held that they will not substitute their own view for the organizations' assessments in such cases (*cf.* Judgment in Case No. 885).

77. Similarly to its previous findings, the Tribunal finds that it has not been demonstrated that any applicable procedural rule, in particular in the light of Article 5.5.1 of the CPR, has been breached. On the contrary, it has clearly been established that the respondent has complied with its obligations under Article 5.5.1 of the CPR.

78. The Tribunal also observes that the appellant failed to substantiate his claim according to which it was promised to him of whether the respondent committed to the extension of his contract.

79. Furthermore, the Tribunal has been presented with ample evidence of the fact that the respondent, through repeated indications of such to the appellant himself, considered that the appellant's employment with NATO ended at the expiration of the appellant's contract (pursuant to Article 7(i) of the CPR), on 31 October 2024.

80. In this regard, the Tribunal notes that it is clear that definite-duration appointments do not imply a right to renewal or conversion and nor shall they thus carry any such expectation.

81. The case law of the Administrative Tribunal of the International Labour Organization is instructive in this regard. It is indeed well settled in the latter Tribunal's case law that an organization such as the respondent:

> enjoys wide discretion in deciding whether or not to renew a fixed-term appointment. The exercise of such discretion is subject to only limited review as the Tribunal respects the organization's freedom to determine its own requirements and the career prospects of staff.[3]

[2] NATO Administrative Tribunal, judgement of 19 April 2023, AT-J(2023)0002, paragraph 36. See also NATO Administrative Tribunal, judgement of 25 July 2019, AT-J(2019)0010, paragraph 46.
[3] ILO Administrative Tribunal, Judgement of 6 July 2022, No, 4503, paragraph 7. See also Judgments of 24 January 2018, No. 3948, paragraph 2 and Judgement of 6 February 2019, No. 4062, paragraph 6.

82. Such discretionary power is not without limits and a given decision can be set aside if:

> it was taken without authority or in breach of a rule of form or of procedure, or if it rested on an error of fact or of law, or if some essential fact was overlooked, or if there was abuse of authority, or if clearly mistaken conclusions were drawn from the evidence.[4]

83. In addition, the ILO AT has also consistently found that an "an employee who is in the service of an international organization on a fixed-term contract does not have a right to renewal of the contract when it expires".[5]

84. The case law of the ILO AT has been echoed in the case law of this Tribunal which has also consistently held that:

> a staff member on a fixed term contract does not have a right to a further contract, and that the decision whether or not to offer one lies within the discretion of the HONB, subject only to certain conditions limiting abuses of discretion (…).[6]

85. In the present case, the respondent did not act in such a way that the decision not to extend the appellant's contract must be set aside by the Tribunal.

E. Costs

86. In relation to costs, the Tribunal recalls that the basis for an award of costs is Article 6.8.2 of Annex IX to the CPR, which empowers the Tribunal to order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant, "where it is admitted that there were good grounds for the appeal".

87. The present judgment has concluded that this was not the case and the appellant is therefore not entitled to be granted reimbursement of the costs of retaining counsel in this appeal.

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[4] Ibid.

[5] ILO Administrative Tribunal, judgement 3444, paragraph 3.

[6] NATO Administrative Tribunal, judgment of 19 January 2021, AT-J(2021)0001, para. 40. See also the findings of the Tribunal in Judgment of 4 February 2020, Case No. 2019/1284; Judgment of 16 June 2019, Case No. 2019/1278; and, Judgment of 6 June 2018, Case No. 2017/1125.

F. Decision

FOR THESE REASONS

The Tribunal decides that:

- The appeal is admissible.
- The appeal is rejected in its entirety.

Done in Brussels, on 8 July 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

4 August 2025 AT-J(2025)0004

Judgment

Case No. 2024/1397

Appellant

v.

NATO Airborne Early Warning & Control Programme Management Agency
Respondent

Brussels, 17 July 2025

Original: English

Keywords: admissibility/inadmissibility; LOJI; contract of definite duration.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louise Otis (President), Ms Seran Karataru Köstü and Ms Anne Trebilcock, judges, having regard to the written procedure and further to the hearing on 26 June 2025.

A. Proceedings

1. The NATO Administrative Tribunal (the "Tribunal") has been seized of an appeal, dated 28 November 2024 and registered on 3 December 2024, by [appellant] (the "appellant") against the NATO Airborne Early Warning & Control Programme Management Agency ("NAPMA," the respondent). The appellant seeks annulment of two decisions: (a) the decision of the NAPMA General Manager ("GM") of 23 August 2024 informing the appellant that she would not be eligible for Loss of Job Indemnity (LOJI) upon expiry of her contract on 31 December 2024 and (b) the GM's decision of 17 October 2024 rejecting her complaint of 19 September 2024 on this question. She has in addition requested financial reparation for moral prejudice,in the amount of €5,000 (*ex aequo et bono*) and reimbursement of legal costs and legal fees.

2. The respondent, in its answer dated 4 March 2025 and registered on 11 March 2024, invites the Tribunal to rule the appellant's appeal inadmissible and to reject her claims as unsubstantiated. The appellant's reply, dated 10 April 2025, was registered on 17 April 2025; the rejoinder, dated 22 May 2025, was registered on the same date.

3. On 14 June 2025, at the appellant's request, the Tribunal permitted inclusion in the case file of a one-page statement signed by the Chair of the NAPMA Staff Association, dated 12 June 2025. At the same time, the Tribunal afforded the respondent the opportunity to make observations by 19 June 2025, which it did on that date.

4. An oral hearing took place on 26 June 2025 at NATO Headquarters. The Tribunal heard the arguments by the appellant's legal representatives and the representatives of the respondent, in the presence of Ms Laura Maglia, Registrar. The appellant was present but did not make a statement.

B. Factual background of the case

5. From 1 January 2010 to 31 December 2024, the appellant worked for NAPMA under successive definite duration contracts. Her length of service was 15 years (plus 1 year and 5 months on earlier temporary contracts). The last contract, concluded for five years, ran from 1 January 2019 to 31 December 2024.

6. On 17 June 2024, NAPMA's Chief of Human Resources (CHR) informed the appellant in writing that, with reference to Article 5.5.1 of the Civilian Personnel Regulations ("CPR") and in accordance with the terms of her employment with NAPMA, her present contract was to end on 31 December 2024. This communication did not refer to the LOJI issue. The appellant was orally informed by the CHR that she would not be awarded LOJI. The appellant questioned who had made the decision as regards entitlement to LOJI.

7. To clarify this, the appellant inquired about payment of LOJI in a written query of 1 August 2024 addressed to the GM. Her query also mentioned that she had been informed that her definite duration contract would not be renewed. She referred to advice received from the Confederation of NATO Civilian Staff Committees. It had indicated that Article 10 of Annex V to the CPR applied to her case, thus entitling her to payment of LOJI. The advice had also referenced use of the term "termination of services" in the CPR to underpin her claim.

8. A reply signed by the CHR, dated 23 August 2024, indicated that the appellant would not receive LOJI, based on NAMPA's understanding of the relevant CPR provisions and a distinction between "termination of services" and "termination of contract" in this framework. In support of these conclusions, the reply referred to Articles 5.5.1 and 7 along with Annex V, paragraphs 1 and 10, of the CPR. It noted that expiration of a contract and its termination are separate and mutually exclusive grounds for separation. This decision confirmed that the appellant's contract would expire on 31 December 2024 and that she would not be eligible for LOJI.

9. The appellant then asked the GM on 9 September 2024, in the presence of the author of an affidavit later submitted by the appellant with the appeal, whether this decision was his. The GM confirmed that it was his decision. The appellant then on 19 September 2024 lodged a complaint against the 23 August 2024 decision not to pay LOJI. The GM rejected the complaint on 17 October 2024, stating reasons and citing various provisions of the CPR.

10. This appeal, dated 28 November 2024, followed. At the time of the appeal, the appellant was 62 years of age.

11. In support of the appeal, an affidavit was submitted in which its author, based on his direct observations and access to the administrative budget, stated that, in contrast to earlier years, the 2025 budget still listed on the establishment the post that the appellant had held, but did not show funding for it. The respondent did not refute this assertion, arguing only that it was irrelevant whether a post was suppressed, frozen or kept vacant. The affidavit also recounted a conversation with a third party, which the respondent denied; it urged exclusion of the affidavit from the file.

C. Summary of the parties' contentions, legal arguments and relief sought

(i) The appellant's contentions

12. According to the appellant, her complaint was filed in a timely manner and she is appealing decisions that adversely affected her interests. The appeal is therefore in her view admissible.

13. In support of this position, the statement of the staff representative raised two points in relation to the question of timeliness, which he speculated that the Tribunal might raise *ex officio*. First, he stated that in his and (named) others' presence, the CHR had promised to answer the appellant's letter of 1 August 2024 "after a final decision had

been taken," following consultation with a legal officer. He concluded, "Thus, any final decision by NAPMA could not have been taken before NAMPA's letter dated 23 August 2024." Second, he identified himself as the witness mentioned in the appeal, since he had accompanied the appellant to the meeting with the GM on 9 September 2024 in which the latter had confirmed that denial of LOJI was the GM's decision, communicated by the CHR.

14. The appellant alleges improper denial of LOJI, through a breach of paragraph 10 of Annex V to the CPR regarding application of the criteria for awarding LOJI, and a lack of transparency. She states that the NAPMA budget for 2025 still included the post she had held, but that a document showing the anticipated cost per post did not include it (as supported by statements in an affidavit authored by a financial analysis specialist at NAPMA). The appellant argues that the term "termination of service" is used throughout the CPR and is not limited to instances where action by the GM is needed to end the contract, and that under a proper interpretation of the CPR, she is entitled to LOJI. The appellant provided several examples of the use of various terms in the CPR.

15. As a subsidiary claim, the appellant states that as from her second contract extension, she has de facto been employed under an indefinite duration contract; otherwise, Article 5.5.2 of the CPR, read in combination with Article 5.1.2, would be breached.

16. In her third claim, the appellant alleges a breach of the duty of care, causing stress and uncertainty with an impact on her health, since questions of interpretation should be resolved in favour of the weaker party to the contract.

17. The appellant alleges that she was assured in 2023 that if her contract could not be extended at the end of 2024, she would receive LOJI and that NAPMA HR had budgeted for this. She contends that her post was suppressed, thus fulfilling one of the conditions required for granting LOJI. In support she offers an affidavit from a financial analysis specialist who is also chair of the local Civilian Staff Committee. The above-mentioned affidavit referred to a conversation in October 2024 in which the GM allegedly said that the appellant's position had not been suppressed, but only frozen, and that it would be kept unfilled for an unspecified period of time. The GM allegedly stated that otherwise, the organization would have to have given the appellant an indefinite duration contract.

18. The appellant requests annulment of the contested decisions, and in addition financial compensation evaluated *ex aequo et bono* at €5,000 in reparation for moral prejudice, plus costs and fees.

19. At the hearing, the appellant's legal representative reiterated the claims, stressing the need to interpret the provisions of the CPR in a manner that would result in admissibility of the appeal and granting of LOJI. This representative maintained that others in similar situations had been awarded LOJI. The appellant argued that the decision not to renew the contract had been lacking in transparency, and that it had failed to acknowledge that this decision and the entitlement to LOJI had been intertwined. The appellant disagreed that she did not meet the conditions for entitlement to LOJI, her interests had been adversely affected and she had experienced considerable stress

occasioned by the respondent's lack of transparency and actions, thus underpinning her claim for damages *ex aequo et bono*.

(ii) The respondent's contentions

20. The respondent contests the admissibility of the appeal, as it is not directed against an act or omission adversely affecting the appellant's working conditions.

21. The respondent answers that, as properly notified to the appellant, she was not eligible for payment of LOJI under the applicable provisions of the CPR (citing Annex V, Paragraph 1). The respondent denies that she had been told that she had been eligible for a budgeted LOJI. It argues that LOJI is payable only when a contract ends prematurely, not when it ends in accordance with its terms; the basis for entitlement distinguishes *expiration* of a contract under its terms from *termination* of contract through action by the GM.

22. The respondent argues that suppression of a post can occur only for posts which are actually filled, which was not the case here since the suppression had occurred after expiration of the contract. The respondent urges the Tribunal to exclude the statements in the affidavit supporting the appeal as inadmissible hearsay. It considers the examples from the CPR cited by the appellant as exceptions to the main rule (as stated in Article 9 and Article 1 of Annex V to the CPR), and that they are not pertinent, as they solely concern pension issues.

23. The respondent notes that the appellant should have been offered an indefinite duration contract rather than her last five-year contract, but it was only in a position to offer her a five-year definite duration contract in 2019 due to the budgetary constraints of the particular programme. She had accepted that contract, and had no right to a further contract or an indefinite duration contract.

24. Since the criteria of suppression of post was not met, the respondent had no legal grounds for awarding LOJI. In relation to that, the respondent adds that whether the former post was frozen or suppressed was not relevant, since in any event it involved an occurrence subsequent to the termination of the appellant's contract. The respondent also points out that documents from 1986 that were attached to the appeal had been superseded by the latest amendment to the CPR regarding the granting of LOJI.

25. As for the statement of the staff representative dated 14 June 2024, the respondent maintains that the cited remarks were taken out of context. It adds that the decision not to grant LOJI was communicated to the appellant on 17 June 2024, and that the appellant's own letter of 1 August 2024 had stated that the decision on ineligibility for LOJI had been communicated to her before 1 June of that year. The respondent did not see the relevance of the second point raised by the staff representative.

26. At the hearing, the respondent reiterated the arguments in its pleadings. It evoked the special nature of NAMPA, a project-based organization involving 16 Nations rather than the full NATO membership for decisions on funding. It said this explained why it was only possible to offer fixed duration contracts to the appellant or anyone else. The respondent indicated that a post could be suppressed (meaning it was no longer on the

establishment list), frozen (on that list but not being filled for the moment) or vacant (not occupied but for which flexible budgetary planning permitted its filling). It was clarified that the post previously held by the appellant was vacant rather than suppressed. The respondent reiterated that the appeal should be dismissed as inadmissible and unfounded.

D. Considerations and conclusions

(i) Admissibility

Timeliness

27. The respondent did not contest the timeliness of the appeal in its pleadings. However, in its response to the Staff Association Chair's statement, it implicitly raised a doubt about whether the initial complaint was filed within 30 days of the contested decision. The Tribunal notes that a decision on entitlement to LOJI was not a matter requiring immediate action, such as an on-the-spot decision to suspend a staff member with immediate effect, for which initial oral communication of the decision might have sufficed depending on the circumstances. The respondent provided written notification regarding the GM's denial of LOJI on 24 August 2024; this triggered the 30-day period for filing a complaint against a final decision pursuant to Article 4.1 of Annex IX to the CPR. The appellant's complaint was made within less than 30 days. Her appeal was also filed within 60 days of the notification that the relief she had requested would not be granted (see Article 6.3.1(a) of Annex IX to the CPR).

28. Based on these findings, the Tribunal concludes that the appeal is not time-barred.

Subject matter jurisdiction

29. The respondent argues that the appeal is not receivable, whereas the appellant maintains that it is. In the view of the respondent, the appeal "is not directed against an act or omission adversely affecting the Appellant's conditions of work," since LOJI becomes payable only after separation from the organization. The respondent maintains that the denial could not affect the appellant's "working conditions" because LOJI is payable only once an official has left the organization. The GM did not, in its opinion, have the power to grant LOJI because the appellant did not meet the required conditions for it.

30. The appellant reiterates that the decision did indeed adversely affect her status and her interests, citing jurisprudence (NATO Administrative Tribunal, JM v NCIA, No. 2018/1276 of 21 June 2019; ILOAT, Judgment 1674, under consideration 6(a)). She notes that the term "staff member status" is much broader than the term "working conditions," and includes the right to certain allowances such as LOJI.

31. In the event of a dispute as to whether a matter falls within the competence of the Tribunal, the Tribunal itself shall decide (Article 6.2.2 of Annex IX to the CPR). The Tribunal is competent to decide any individual dispute brought by a staff member "concerning the legality of a decision taken by the Head of a NATO Body…." (Article

6.2.1 of Annex IX to the CPR). The decision communicated by that Head to the appellant denied her entitlement to LOJI, no matter what the reasons given by the NATO Body.

32. Article 2.1 of Annex IX to the CPR enables staff members to seek administrative review of "a decision affecting their conditions of work or of service [which they consider] does not comply with their terms and conditions of employment, including their contracts, applicable regulations governing personnel and other terms of appointment….". It refers to more than the "conditions of work" emphasized by the respondent. A decision can have an immediate effect or an effect that is triggered only upon the expiration of an official's contract. In either case, the status and/or interest of an official may be affected, and the term "conditions of work or of service" extends to both situations.

33. The Tribunal concludes that it has subject-matter jurisdiction in this case. To rule otherwise would risk barring other appeals challenging a range of decisions which have effect only upon termination of employment. The appeal is receivable.

(ii) The merits

34. The appellant has the burden of proof in an appeal. The appellant's assertions about having been assured earlier that she would receive LOJI, and the reported conversation reflected in the affidavit in support of the appeal, have been denied by the respondent and are thus not proven. Similarly, the assertions that NAPMA had granted LOJI to other staff in similar circumstances was not supported by evidence of such instances.

35. Under the terms of her contract, the appellant fell within the definition of international civilian personnel, staff, or members of the staff, assigned to international posts appearing on the approved establishment of the NATO body concerned (CPR, Preamble, B.(v)(c)). The extension of her contract in 2019 referenced Article 5.5.1 of the CPR. This provision requires informing the official at least six months before the "expiry of the contract" whether or not conclusion of a further contract is intended. The respondent did this in its communication of 17 June 2024, and her services then ended upon expiry of the contract a little over six months later.

36. NAPMA acknowledges that in 2019, the appellant should have been offered an indefinite duration contract after having successfully completed more than 10 consecutive years, but that budgetary restrictions had prevented this. The Tribunal recalls that the CPR are applicable across NATO "and shall govern personnel administration in each NATO body" for international civilian personnel (CPR, Preamble, Paragraph A.(i)).

The claim for LOJI

37. In his decision of 17 October 2024, the GM pointed to a distinction in the CPR between a contract expiring under its agreed terms on a specified date and a contract being terminated by executive action, "even if the terminology used by NCPR is not identical/fully aligned with regards to termination of contract or termination of services…". The CPR do indeed distinguish between the two circumstances. However, the reasons given to the appellant in the GM's decision of 17 October 2024 were somewhat confusing. That decision correctly referred to Article 7.1 of the CPR, which provides that

"a staff member may be separated from the Organization" (Article 7.1) either for "expiration of a contract," with a cross-reference to Article 5.5 on contracts, or due to "termination by the Head of NATO body", with a cross-reference to Article 9 on termination. The decision also referred to Annex V to the CPR, and the conditions set out for empowering the GM to award LOJI. The GM stated that the wording cited (from Articles 7 and 9 of the CPR, and Paragraphs 1 and 10 of its Annex V) is "explicit and unambiguous." If that were the case, this appeal would not be before the Tribunal.

38. If the contested decision had referred to Articles 10.8 and 10.9 of the CPR, confusion could have been avoided for the appellant. Article 10.8 enables termination of a definite duration contract "by mutual agreement." Article 10.9 speaks, in relation to the granting of an indemnity under Annex V, of the Head of the NATO Body having to "break the contract," which unambiguously means ending the contract before its agreed date of expiration. Since the appellant's contract ended by mutual agreement on the date agreed, she was not entitled to receive LOJI under the legal framework of the CPR.

39. It is true, as the appellant points out, that Annex V to the CPR grants the Secretaries-General of the Coordinated Organizations the power to award an "indemnity for loss of employment" to both staff holding a "firm contract" (as defined in its Paragraph 1(1)) and to staff having "served not less than 10 consecutive years with one or more Coordinated Organizations" as specified in that Annex, "*whatever the nature of the contract held by him at the time when his appointment is terminated.*" (Annex V, Paragraph 10, emphasis added). In both cases, however, awarding LOJI depends on the condition of actively terminating the contract, as set out in Article 10.9 of the CPR, and on meeting certain conditions.

40. In relation to the conditions set out in Annex V to the CPR, it was uncontested that the appellant worked for NAPMA for 15 years without a break, and that she was not offered a post in the same organization or in another coordinated organization (as required for LOJI under Annex V, Paragraph 1(1) and (3)). The parties differed over whether the third criteria for entitlement to LOJI, which relates to services having been terminated for one of the listed specified reasons, was met (see Paragraph 1(2) of Annex V to the CPR).

41. The parties disagreed as to whether or not there had been "suppression of the budget post occupied by the staff member" (see Annex V, Paragraph I(2)(a)). While the finding in paragraph 38 renders it unnecessary to decide this question, the Tribunal makes several observations.

42. First, the portions of the affidavit that relied on its author's direct observations, based on his access to the administrative budget, showed that in contrast to earlier years, the 2025 budget listed the relevant post on the establishment but did not show funding for it as of 1 January of that year. The respondent did not refute this assertion, while arguing that it was irrelevant whether a post was suppressed, frozen or kept vacant because the appellant's contract had expired on 31 December 2024, the day before 1 January 2025.

43. At the hearing, the respondent clarified that the post was being kept vacant rather than being "suppressed." Whatever term is used, the practical effect is the same: beginning on 1 January 2025, when the new budgetary period began, the post was not

available to be filled immediately by the appellant or by anyone else. By definition, a suppressed post cannot be occupied because it lacks funding. In connection with the respondent's interpretation of the provision in question, the Tribunal finds a lack of consistency and of transparency.

44. For the reasons stated, the claim to annul the decisions of 23 August 2024 and 17 October 2024 in relation to LOJI is rejected.

The claim of a de jure indefinite duration contract

45. The appellant has claimed that "on a subsidiary basis," she held a de jure indefinite duration contract, thus entitling her to LOJI under Paragraph 1(1) of Annex V to the CPR. Under this theory, as long as she met the conditions set out for receiving LOJI as discussed above, she would have been entitled to LOJI calculated in accordance with Paragraph B. 6 of Annex V for staff with indefinite term appointments. However, the Tribunal does not rule on this question, since the logical result of finding that she had a de jure indefinite duration contract would be to order reinstatement of the appellant in her post, which is relief that she has not requested. Moreover, while it was improper for NAPMA not to have offered her an indefinite duration contract at the appropriate time, it is too late for the appellant to challenge that decision in this appeal.

46. For these reasons, the subsidiary claim is also rejected.

Duty of care

47. The appeal alleges a breach of the duty of care based on the principle that if a provision raises problems of interpretation, it should be interpreted in favour of the weaker party to the contract (the appellant). While the Tribunal, along with other international administrative tribunals (see e.g. Grassi v EBRD; EBRD Administrative Tribunal, 18 January 2016, paragraph 33), follows this principle, it does not find that the respondent misinterpreted the relevant provisions of the CPR in informing the appellant that she was not entitled to LOJI.

48. At the hearing, counsel for the appellant stressed a lack of transparency in relation to whether her former post had been suppressed or not, leading to stress. Although the allegations of the impact of the respondent's decisions on the appellant could have been better documented, it was evident that after 15 years of service, she was, at age 62 at the time of the appeal, understandably disappointed with the denial of LOJI. The Tribunal recalls that the decision to award damages is independent of a decision to annul an administrative decision or not (see e.g. AT judgment in Case No. 2024/1387 SV v. NSPA, paragraph 49). In this instance, the respondent's action lacked transparency in relation to its application of the criteria of suppression of a post; moreover, a simpler explanation about the basis for the decision to deny LOJI could have been communicated to the appellant. The Tribunal finds that under these circumstances, a modest award of moral damages, in the amount of €2,000, should be awarded *ex aequo et bono*.

E. Costs

49. Article 6.8.2 of Annex IX to the CPR provides as follows:

> "In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant…."

50. The appeal having succeeded in part, the Tribunal awards costs of retaining counsel up to a maximum of €3,000.

F. Decision

FOR THESE REASONS,

The Tribunal decides that:

- The claims seeking annulment of the decisions of 23 August 2024 and 17 October 2024 are rejected.
- The claim seeking financial reparation in relation to moral damages is granted in the amount of €2,000 (two thousand euros).
- The claim to reimburse the appellant for the costs of retaining counsel is granted, up to a maximum of €3,000 (three thousand euros).

Done in Brussels, 17 July 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

4 August 2025 AT-J(2025)0005

Judgment

Case No. 2025/1399

Appellant

v.

NATO Communications and Information Systems Group
Respondent

Brussels, 18 July 2025

Original: French

Keywords: non-renewal of contract; unsatisfactory performance.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louise Otis, President, Ms Anne Trebilcock and Mr Fabien Raynaud, judges, having regard to the written procedure and further to the hearing on 25 June 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter "the Tribunal") has been seized of an appeal by [appellant] (hereinafter “the appellant”) against the NATO Communications and Information Systems Group (NCISG, hereinafter “the respondent”). The appeal, dated 31 January 2025, was registered on 5 February 2025 (Case No. 2025/1399). The appellant is requesting that the Tribunal annul the decision of 3 December 2024 and, if needs be, that of 24 May 2024, whereby the NCISG rejected his request for compensation for the damage he claims to have suffered owing to failings of the service. He is seeking EUR 50,000 in non-material damage as well as compensation for material damage caused, in his opinion, by the absence of progression in his career during his sick leave and by the loss of opportunity to have his contract renewed (unquantified amount). Lastly, he is seeking reimbursement of his legal costs (unquantified amount).

2. The NCISG’s answer, seeking dismissal of the appeal, was submitted on 6 April 2025 and registered on 8 April 2025.

3. The appellant’s reply, seeking the same relief as in the appeal, was submitted on 7 May 2025 and registered on 13 May 2025.

4. The respondent’s rejoinder, seeking dismissal of the appeal, was submitted on 9 June 2025 and registered in 10 June 2025.

5. An oral hearing was held on 25 June 2025 at NATO Headquarters. The Tribunal heard arguments by the parties, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

6. The appellant, a former [*nationality*] serviceman, was recruited by the NCISG to serve in [*location*], Germany as a Services Management Technician (grade B4) on a 3-year contract starting on 1 November 2021. He passed his probationary period on 13 April 2022. The respondent acknowledges that the appellant’s professional performance is not in question in the present case.

7. In June 2022, the appellant’s behaviour caused several incidents. On Friday 3 June, at an informal national celebration dinner involving many colleagues, the appellant was highly intoxicated and caused several instances of property damage, including breaking glasses, in the restaurant where the dinner was being held. He was asked to leave the restaurant before the end of the dinner; however, nobody was injured and no complaint was made against him.

8. On Sunday 5 June 2022, on returning to his barracks, the appellant, who was intoxicated, was unable to locate his key and had an altercation with the on-duty security guard who was asking him for proof of his identity, which made him angry; the civil police was called to restrain him but no charges were filed. In the week of 6 June, several incidents occurred due to the appellant's apparent intoxication, including three failures to report for duty.

9. On Wednesday 22 June 2022, the appellant was suspended with pay on behavioural grounds. The suspension decision noted that the appellant was required to notify his chain of command if he travelled more than a 45-minute drive away from his duty station during working hours.

10. On 23 June 2022, disciplinary proceedings were initiated against the appellant, and on 25 July, a Disciplinary Board was convened.

11. On 19 July 2022, the appellant put in a request for annual leave, which was approved. He left Germany for the [*country of origin*], where he was placed on sick leave as from 1 August. He remained on sick leave until the end of his contract.

12. On 28 October 2022, the Disciplinary Board delivered its report in which it concluded that the events of June should in principle lead to dismissal of the appellant. However, it raised questions about the impact the appellant's health might have had on his behaviour, as he claimed to have been suffering from depression caused by events in his private life. As a consequence, the Disciplinary Board recommended that the disciplinary proceedings be paused to allow the appellant to appear before an Invalidity Board.

13. In a decision dated 18 November, the hierarchical authority issued an order suspending the disciplinary proceedings until an assessment of the appellant's state of health at the time of the events in question could be conducted.

14. On 1 November 2022, the appellant was placed on extended sick leave, on the basis of Article 45.7 of the NATO Civilian Personnel Regulations (CPR).

15. On 17 March 2023, the NCISG proposed that the appellant undergo a medical assessment with a specially appointed psychiatrist but on 20 April, the appellant turned down that proposal on the grounds that his doctor had advised him not to have any contact with the Administration or its representatives.

16. On 15 November 2023, the appellant asked the respondent for more information about the conditions of a future medical assessment, but the exchanges on this between the respondent and the appellant at the end of 2023 and the beginning of 2024 were unfruitful.

17. On 21 February 2024, in the run-up to the end of the appellant's contract, an independent medical assessment procedure to determine the appellant's fitness for work was initiated by a medical adviser from the NCISG's insurer (Allianz).

18. On 27 March 2024, the appellant was informed that his contract, which was set to expire six months later, on 31 October 2024, would not be renewed.

19. On 15 April 2024, the appellant sent a letter requesting compensation for the damage he claimed to have suffered owing to the disciplinary proceedings and alleged flaws. That request was denied on 24 May.

20. On 23 June 2024, the appellant filed a formal request for compensation under the CPR. A Complaint Committee was convened on 12 July. In its report dated 9 October, the Committee reviewed the appellant's grievances, deemed them to be unfounded and concluded that the request for compensation should be dismissed.

21. On 1 August 2024, the appellant reached the maximum 21 months of extended sick leave. However, it was decided to prolong that period until the opinion of the medical adviser of the NCISG's insurer on the appellant's fitness for work had been issued.

22. On 1 November 2024, the three-year contract between the appellant and the NCISG expired, but was extended pending the medical assessment. The appellant continued to receive his salary.

23. On 3 December 2024, the NCISG chief decided to 1) end the disciplinary proceedings because of the inability to obtain a medical assessment of the appellant's health during the incidents of June 2022, 2) approve the findings in the Complaint Committee's report and dismiss the request for compensation and 3) confirm both the non-renewal of the contract and its extension pending the medical assessment by the NCISG's insurer on the appellant's fitness for work. The assessment was delivered a few days later with a finding of no permanent invalidity.

24. On 10 December 2024, the appellant was informed that his contract would be terminated on 31 December 2024.

C. Summary of the parties' contentions

(i) The appellant's contentions

25. The appellant claims that from April 2022, and especially during the period in which the events that led to the disciplinary proceedings took place, he was in a situation of "extreme stress" following a combination of traumatic incidents in his private life (suicide of a close friend, relationship breakdown). In his view, this situation is what caused the incidents of June 2022 which led to the disciplinary proceedings against him. The Disciplinary Board took account of this and recommended that the disciplinary proceedings be held in abeyance until such time as an assessment of the impact of these events on the appellant's health had been made.

26. Furthermore, the appellant asserts that at the time of the events in question, he sought out both an English-speaking psychiatrist close to his place of work in Germany

to get the medical support and treatment he needed, and help from his chain of command, to no avail.

27. The appellant is seeking compensation for the damage he considers he suffered owing to the unjustified extension of the disciplinary proceedings and the flaws that occurred during those proceedings, the disregard of the duty of assistance from his chain of command and, lastly, the absence of career progression during the period in question.

28. The appellant claims first of all that he was not told why his request for compensation had been rejected. He states that several of the grievances he laid out were dismissed without having been looked into, or at the very least without a detailed explanation being provided, in violation of the duty to state reasons.

29. Regarding the merits, the appellant claims that the disciplinary proceedings against him were flawed: first because the procedure followed by Major A. to establish his report was improper since an Administrative Board of Inquiry should have been convened pursuant to ACO Directive 010-019, and second because his rights of defence were not respected insofar as he was not able to hear and cross-examine the witnesses and he himself was not heard in conditions allowing him to defend himself.

30. The appellant further claims that the respondent failed in its duty of assistance, despite having been made aware of the appellant's health problems by the appellant himself. He claims that the respondent curtailed his freedom of movement by not allowing him to travel over 45 km away from his duty station during the period he was suspended, even though he was looking for an English-speaking medical specialist and was having trouble finding one within those 45 km.

31. Furthermore, the appellant claims that the respondent did not act in good faith after the 18 November 2022 decision to pause the disciplinary proceedings pending a medical assessment, insofar as it never wished to commission a collegial assessment of the appellant's health as required by the Disciplinary Board.

32. Lastly, the appellant contends that having his security clearance suspended by the [*nationality*] military authorities was an extra factor of stress. He claims that the suspension was only made possible by the respondent's having sent those authorities information about his health, in breach of its duty of assistance and of medical confidentiality.

(ii) The respondent's contentions

33. The respondent recalls that the grievances brought forward by the appellant were examined in detail by the Complaint Committee, which, in a detailed report dated 9 October 2024, dismissed them all as unfounded. In the impugned decision, the competent NCISG authority took into account the information in the report, allowing the appellant to be fully informed of the reasons why his request for compensation had been rejected.

34. On the merits, the respondent contends that there were no flaws in the disciplinary proceedings and that the Administration did not fail in its duty of assistance or with respect to any other right or principle that would require compensation for any kind of damage.

35. Regarding the disciplinary proceedings, the respondent underscores that it is specifically stated in Directive ACO 010-019, which provides for the possibility of establishing an Administrative Board of Inquiry, that resorting to such a board is without prejudice to the basic disciplinary proceedings laid out in the CPR (Annex X, para. 5), which merely provides for the establishment of a report setting out the facts complained of. These were the proceedings that were followed in the present case, as Major A., in addition to being himself a witness to some of the events complained of, did establish a list of witnesses.

36. The respondent underscores that the appellant had access to witness testimony and had every opportunity to respond to it. However, there is no CPR provision for cross-examining witnesses before the Disciplinary Board, which heard the appellant and his arguments.

37. In any event, the Head of the NCISG ultimately decided to discontinue the disciplinary proceedings. As a consequence, no disciplinary action was taken against the appellant, who therefore did not suffer any damage as a result of alleged flaws in the disciplinary proceedings.

38. Regarding the alleged failure to provide duty of assistance, the respondent underscores that the appellant was continuously on sick leave from 1 August 2022 until the expiry of his contract. Therefore, it is unclear what more the appellant's chain of command and the Administration in general could have done. The respondent also highlights that the appellant had expressly stated that for medical reasons, he did not want any contact with the Administration during the whole of his sick leave period.

39. Furthermore, the respondent states that the requirement for the appellant to notify his chain of command if he travelled to an area more than a 45-minute drive away from his duty station during working hours while he was suspended was reasonable and proportionate. All he had to do was to inform his chain of command if he intended to travel beyond the defined limit. In any event, that requirement ceased to apply *de facto* as from 19 July 2022, when the appellant started his annual leave, and *de jure*, when he went off on sick leave on 1 August 2022.

40. Regarding the allegation that the respondent breached good faith with regard to the medical assessment, the respondent notes that given the specificity of the health condition in question (mental health), the assessment could not be tasked to the Invalidity Board, since that board's role is to assess whether staff members are fit for work. The Administration faithfully tried to implement the Disciplinary Board's recommendation that there should be an assessment of the appellant's mental health in the light of the events that triggered the disciplinary proceedings. This required an examination by a medical specialist. The appellant refused to be examined by a specialist chosen by the Organi-

zation on the grounds that his doctor had recommended avoiding contact, even for medical matters, with the Administration. In practice, the appellant never agreed to the proposals to be assessed by a medical specialist as recommended by the Disciplinary Board.

41. Regarding the notification to the [*nationality*] military authorities of confidential information from the appellant's medical file, the respondent argues that the NCISG, in line with the applicable texts (Directive ACO 70-1) and as was its duty, sent to the authorities the information that led to the appellant's suspension and the disciplinary proceedings against him; in this context, the respondent did not breach the duty of medical confidentiality with respect to the appellant. It was on the basis of this information only that the relevant [*nationality*] authorities in charge of issuing the appellant's security clearance conducted their own investigation, under their sole responsibility and not NATO's. The decision to suspend the appellant's security clearance was their responsibility alone.

42. In conclusion, it is noted that there was no error that caused damage requiring compensation by the respondent.

D. Ruling of the Tribunal

(i) Admissibility

43. The appellant is not contesting before the Tribunal the disciplinary proceedings that were initiated against him, the ensuing decision to suspend him or the decision to not renew his contract. He is only seeking compensation for the damage he claims to have suffered owing to several flaws and breaches in the disciplinary proceedings, which ultimately ended without any disciplinary action being taken against him.

44. In this framework and within these boundaries that were set clearly by the appellant, there is no issue with the admissibility of the appeal, which is not being challenged by the respondent.

45. The appeal is thus admissible.

(ii) Merits

46. On the merits, the Tribunal underscores that despite the apparent complexity of the case owing to the lengthiness of the proceedings that gave rise to the request for compensation, there is but one simple question: did the Administration, in the framework of those proceedings, commit an error that caused the appellant damage requiring compensation?

47. A number of facts must be recalled which are undisputed by the parties. First, the appellant was recruited on 1 November 2021 on a three-year contract, which was thus due to expire on 31 October 2024 but was extended by two months, until 31 December 2024, owing to the delay in assessing the appellant's health and thus fitness for work.

The appellant went off on paid sick leave as from 1 August 2022 on health grounds linked to events in his private life. The sick leave continued until the end of his contract. Lastly, the materiality of the appellant's actions in June 2022 which triggered the disciplinary proceedings is not in dispute.

48. The claims by the appellant are unfounded.

49. The alleged flaws in the disciplinary proceedings against the appellant have not been established, whether regarding Major A.'s report on the events at issue, the materiality of which is not in dispute, the procedure before the Disciplinary Board (given that the appellant was made aware of the testimonies and was duly heard), or the reasons for the final decision to dismiss his request for compensation.

50. In any event, the Tribunal does not see how the appellant could have suffered damage owing to alleged procedural flaws since the disciplinary proceedings were ultimately dropped by the Administration itself and the Disciplinary Board did hear the appellant, who was thus able to present his arguments. It should be recalled that the subject of the dispute was not the materiality of the events but rather essentially whether or not there were "mitigating factors" that could be attributed to the appellant's depressive state.

51. Regarding the 22 June 2022 decision to suspend the appellant as part of the disciplinary proceedings against him, the appellant reproaches the Administration for curtailing his freedom of movement by obliging him to stay within 45 km of his duty station during working hours which, in his view, kept him from finding an English-speaking medical specialist.

52. The case file shows that that obligation was simply for the appellant to inform his chain of command if he intended to travel to an area more than a 45-minute drive away. Whatever the reasons for such an obligation, the appellant brings forward no evidence that such a restriction caused him damage requiring compensation. The appellant was simply required to notify his chain of command if he travelled to an area over a 45-minute drive away during working hours. It should be noted that that restriction was lifted as from 19 July 2022, when the appellant left to go to the [*country of origin*].

53. Furthermore, nothing in the case file suggests that the NCISG improperly disclosed confidential information about the appellant's health to the [*nationality*] military authorities. As affirmed by the respondent, the NCISG had to inform the [*nationality*] military authorities about the appellant's suspension and the disciplinary proceedings against him, as he was a [*nationality*] national and his clearance had been issued by the [*nationality*] authorities. The fact that those authorities decided to suspend the appellant's security clearance based on the information provided by the NCISG is not within the purview of the Tribunal; neither is the additional stress that the decision caused for the appellant. In any event, the Tribunal is of the view that the respondent did not commit any error that makes it liable in this respect.

54. Regarding the allegation that the NCISG disregarded its duty of assistance towards the appellant, it should be noted that the latter went off on paid sick leave from 1

August 2022 until the end of his contract (which, as was highlighted, was extended by two months after the date of expiry).

55. Furthermore, during his period of sick leave, the appellant had informed the NCISG that, for medical reasons, he wanted no form of contact with the Administration. That request was heeded to the best extent possible and the Administration communicated with the appellant only when it was legally required to do so, to inform him that his contract would not be renewed for instance.

56. As for the requests for assistance sent to the appellant's chain of command, including a series of text messages sent over the course of one night (which the recipient answered despite it being late), it does not appear from the evidence provided by the parties that the Administration, in light of the information available to it and in particular the requests from the appellant, failed in its duty of assistance and thus committed an error that caused damage requiring compensation.

57. It is established that in October 2022, the Disciplinary Board called for the ongoing disciplinary proceedings to be suspended to allow for an assessment of the appellant's state of health and suggested that an Invalidity Board be convened for the purpose of that assessment. It is not disputed that the disciplinary proceedings were indeed suspended, and that decision had no tangible effect on the situation of the appellant, who was on sick leave at that time and continuing to receive his salary. As affirmed by the appellant, the Administration did not refer the matter to an Invalidity Board, but rather sought out a competent medical specialist who could assess the appellant's mental health and its impact in terms of liability and the kind of disciplinary action to be taken.

58. The Tribunal is of the view that the Administration did not wish to unduly extend the suspension of the disciplinary proceedings but rather tried to find a solution to follow the Disciplinary Board's suggestion by seeking out a medical specialist who could give a competent opinion on the matter. The case file shows that the appellant opted not to take up the offer. Given the facts of the case, the respondent should have suggested that the appellant contribute to choosing the medical specialist instead of acting unilaterally. However, this has no bearing on the damage invoked.

59. The supposed damage caused by the extension of the suspension of the disciplinary proceedings has not been proven. The Disciplinary Board had proposed dismissal owing to the seriousness of the events in question, and the expected medical opinion could have led to either mitigating factors being taken into account to lessen the disciplinary action or no such factors being taken into account at all, which would have resulted in the contract being terminated early. While the suspension did prolong the period of uncertainty for the appellant, it also temporarily prevented the appellant's contract from being terminated, at a time when the appellant was in any event on paid sick leave. In these circumstances, by prolonging the suspension of the disciplinary proceedings while awaiting a medical opinion, the Administration did not commit any errors that caused damage requiring compensation.

60 In light of the above, the respondent did not commit any errors that caused damage requiring compensation. Consequently, the appeal must be rejected.

E. Costs

61. Article 6.8.2 of the Rules of Procedure of the Tribunal (Annex IX to the CPR) provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant.

62. In accordance with these provisions, the appellant's claims for reimbursement of costs must be rejected.

F. Decision

FOR THESE REASONS,

the Tribunal decides:

- The appeal is dismissed.

Done in Brussels on 18 July 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

7 November 2025 AT-J(2025)0006

Judgment

Case No. 2025/1400

Appellant

v.

NATO Support and Procurement Agency
Respondent

Brussels, 24 October 2025

Original: English

Keywords: non-renewal of contract, discretion; adherence to internal law; performance appraisal.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louise Otis, President, Mr Thomas Laker, and Ms Anne Trebilcock, judges, having regard to the written procedure and further to the hearing on 9 October 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter the "Tribunal") has been seized of an appeal, dated 14 March 2025 and registered on 24 March 2025 as Case No. 2025/1400, by [appellant] against the NATO Support and Procurement Agency (NSPA). The appellant requests, inter alia, annulment of the decision not to renew his contract and compensation for material and non-material damage suffered as a result of this decision.

2. In its answer, dated 23 May 2025 and registered on 5 June 2025, the respondent invites the Tribunal to reject the appeal on the merits.

3. The appellant's reply, dated 7 July 2025, was registered on 9 July 2025. The respondent's rejoinder, dated 2 September 2025, was registered on 9 September 2025.

4. An oral hearing was held via videoconference at NATO Headquarters on 9 October 2025. The Tribunal heard the appellant's statement and arguments by his representatives and by representatives of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

5. The background and relevant material facts of the case may be summarized as follows.

6. The appellant took up his functions as [position] in March 2022, on a definite duration contract until March 2025. He reported to the [service] Programme Manager and was "responsible for ensuring efficient operation and management of the [service] Programme Office (PO) and for managing the Programme Support Office". In particular, the appellant was responsible for "providing functional and operational management to the personnel assigned to the Office" and for "ensuring an open, transparent and effective personnel management based on the Agency's performance management regulations and principles".

7. In December 2023, the [service] Programme Manager completed the performance appraisal of the appellant for the year 2023, rating the appellant's performance as 'very good'. The General Manager (GM), acting as countersigner, sent the appraisal back to the Programme Manager highlighting that the overall rating of 'very good' was not supported by the individual ratings for the six objectives, which were deemed to be either 'met' (five objectives) or 'partially met'. The Programme Manager upgraded all the individual objectives to 'exceeded' and 'met' and kept the overall rating. He left the Agency before the formal appraisal process could be completed. Despite her

concerns, the GM released the appraisal for 2023 but noted formally that she disagreed with the appraisal performed by the supervisor of the appellant.

8. A new Programme Manager took up his duties in August 2024. The GM asked the new Programme Manager to make a recommendation on whether or not to renew the appellant's contract. On 7 August 2024, the new Programme Manager informed the appellant accordingly.

9. The new Programme Manager assessed the environment of the [service] Programme Office and the appellant's suitability for the role, leadership, and workplace culture. He assessed that it would not be in the interest of the service to renew the appellant's contract and made a recommendation to the Chief Human Resources Officer (CHRO) to that effect. He also provided a detailed summary of his findings to the appellant on 9 September 2024 by email.

10. By decision dated 9 September 2024, the CHRO informed the appellant that the Agency would not renew his contract beyond its expiration date of 15 March 2025, referring to "unsatisfactory performance, as appraised by your supervisor". The following day, the CHRO provided additional justifications for the decision not to renew the appellant's contract. In particular, the CHRO referred to the justifications included in the said email of 9 September 2024.

11. On 11 September 2024, the appellant received the final version of his appraisal report for 2023, ending with the overall rating of "very good".

12. On 24 September 2024, the appellant submitted a request for administrative review of the decision not to renew his contract. On 24 October, the Chief of Staff confirmed the decision not to renew the appellant's contract.

13. On 5 November 2024, the appellant submitted a formal complaint to the GM.

14. On 11 November 2024, the GM informed the appellant that his complaint would be submitted to a Complaint Committee. On the same day, the GM disclosed the Programme Manager's investigation report to the appellant.

15. On 19 December 2024, the Complaint Committee recommended unanimously to confirm the decision not to renew the appellant's contract. The appellant submitted comments on 4 January 2025.

16. On 15 January 2025, the GM confirmed that it would not be in the interest of the service to renew the appellant's contract and decided to uphold the decisions dated 9 and 10 September 2024 and 24 October 2024.

17. The present appeal was submitted on 14 March 2025.

C. Summary of parties' contentions, legal arguments and relief sought

(i) The appellant's main contentions

18. Firstly, in the appellant's view, his defence rights and right to be heard were disregarded by the respondent.

19. Secondly, he contends that the rules on appraisal process and performances were violated. In his view, the decision not to renew his contract was based on an assessment which was outside the legal framework for performance appraisals provided for in the NATO Civilian Personnel Regulations (CPR) and NSPA rules and covered only one month.

20. Further, the appellant sees the non-renewal as abuse of power by the GM.

21. In addition, the appellant alleges that the respondent committed a manifest error of appreciation because the disputed decisions are based on manifestly unfounded grounds.

22. Finally, the appellant is of the view that the respondent neglected its duty of care and the principles of good administration.

23. The appellant requests:
- annulment of the contested decisions;
- that the respondent be ordered to pay compensation for the material damage (75% of his total income for three years) and the non-material damage (€ 25,000) suffered by the appellant; and
- that the respondent be ordered to pay all the costs.

(ii) The respondent's main contentions

24. Firstly, the respondent denies a violation of the appellant's right to be heard, emphasizing that such a right exists only in case of termination rather than in case of a mere non-renewal of contract.

25. Next, the respondent denies that the appellant's performance assessment had any influence on the contested decisions. The decision not to renew the contract was based on substantiated reasons which were communicated to the appellant in due time.

26. According to the respondent, based on established facts, it was not in the NSPA's interest to renew the appellant's contract.

27. Finally, the respondent considers that it exercised its discretion properly and did not violate its duty of care.

28. The respondent requests that the appeal be rejected.

D. Considerations and conclusions

(i) Applicable law

29. Regarding the renewal of contract, Article 5.2.3 of the CPR provides that:

> Definite duration contracts may be renewed for a period of up to 5 years and subject to the following factors being met:
> (i) renewal is in the interests of the Organization;
> (ii) availability of budget post;
> (iii) performance to the required standard as defined by the Head of NATO body;
> (iv) in the case of seconded staff, the duration of the contract does not exceed the period of secondment.

Pursuant to Article 5.5.1:

> The staff member shall be informed in writing not less than 6 months before the expiry of a contract whether or not it is intended to offer a further contract.

30. Regarding performance evaluation, Annex VIII of the CPR, Article 1.1 provides that an effective performance evaluation notably includes "ongoing dialogue between supervisors and staff members concerning individual, team, divisional and organizational objectives and performance". Article 3.1 states, inter alia, that the "assessment of the overall performance …should be based on the staff member's performance against the following criteria … - performance with respect to any competencies and/or attributes which have been established for his or her post".

31. Article 3.2 of Annex VIII to the CPR states that:

> The proposed assessment should then be vetted by a second level supervisor (e.g. Section/Branch/Division Head), calibrated by the Organization for consistency, and signed by the supervisors and staff member. The staff member will be given the opportunity to comment formally should he or she wish to. The second level supervisor/countersigning officer should also discuss any revisions to the proposed assessment with both the staff member and the immediate supervisor and the revised assessment should then be signed by both the supervisors and the staff member.

32. Article 4.1 of Annex VIII of the CPR also specifies that:

> In case of disagreement and if a satisfactory solution cannot be reached, a conflict resolution mechanism may be invoked by a staff member in the performance management system. The following principles should be respected:
>
> (i) agreement by the Head of the NATO body and the local staff association on the procedure;
> (ii) safeguard of the rights of the parties concerned;
> (iii) neutrality and objectivity;
> (iv) different stages to resolve the conflict, which, as necessary, may include:
> - conciliation conducted in the Division/Organization unit concerned under the responsibility of the appropriate second level supervisor

- mediation – involves the services of a neutral mediator, whose role is to assist the parties involved to come to understanding/resolution
- resolution – brings the matter before a Joint Review Board, which is responsible for making the final decision

(v) prompt handling of conflicts.

33. The NSPA rules on "Employee Performance Management" of 1 June 2023 (NSPA rules) provide that the aim of the appraisal process is notably to "identify areas where improvement is required and put into place measures to address the performance gap(s), including a Performance Improvement Plan (PIP)" (Article 1.1.2.6).

34. In addition, pursuant to the NSPA rules, the role of managers involves notably "[m]onitoring the staff member's performance throughout the year" (Article 5.2.2.1.5), "[p]roviding ongoing feedback and coaching to each staff member reporting to them regarding the staff member's progress against established objectives and competencies" (Article 5.2.2.1.6), "[a]dvising, supporting and coaching the staff member on professional development" (Article 5.2.2.1.7); "[i]Identifying in a timely manner where a staff member's performance does not meet established expectations" (Article 5.2.2.1.11), "partnering with the staff member to provide feedback, coaching and guidance to address any identified performance issues on the staff member's part" (Article 5.2.2.1.12), "[e]stablishing a Performance Improvement Plan (PIP), with input from the staff member and support from Human Resources, to formally address identified performance issues for which informal feedback, coaching and guidance have proven insufficient in situations where a staff member's performance is assesses as "Fair" or "Unsatisfactory"," (Article 5.2.2.1.13) and "[l]iaising with Human Resources if, despite remedial actions, the performance of the staff member remains below established expectations" (Article 5.2.2.1.14).

35. Under the NSPA rules, the role of the countersigner is notably for "[r]eviewing the performance appraisals made by the direct managers who are under their supervision and ensuring the performance appraisal is fair, equitable and of good quality" (Article 5.3.2.4). 41. And finally, Article 6.5.2 of the NSPA rules provides that "All parties should meet to discuss the points of disagreement with the countersigner remaining responsible for trying to achieve resolution".

(ii) Merits of the appeal

On the regularity of the contested decision

36. The Tribunal recalls that decisions concerning renewal or non-renewal of contracts are within the discretionary power of the Administration, as indicated in Article 5.2.3 of the CPR. Pursuant to the Tribunal's established case law, a decision in the exercise of discretion is subject to only limited review by a tribunal. A tribunal would interfere with a non-extension of contract decision only if it was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority. International administrative tribunals have also consistently held that they will not substitute their own view for the organizations' assessments in such cases (cf. judgment in Case No. 2019/1278).

37. In the present case, breaches of procedural rules on performance appraisals are at stake. As the ILOAT (judgment 2991, consideration 13) held, “[i]t is a general principle of international civil service law that there must be a valid reason for any decision not to renew a fixed-term contract. If the reason given is the unsatisfactory nature of the performance of the staff member concerned, who is entitled to be informed in a timely manner as to the unsatisfactory aspects of his or her service, the organisation must base its decision on an assessment of that person’s work carried out in compliance with previously established rules (see, for example, Judgments 1911, under 6, and 2414, under 23)”.

38. The Tribunal is aware of the respondent’s view that the contested decision not to renew the appellant’s contract “is based on his conduct but it is not on his level of performance”. As stated in the explanation of 10 September 2024, “the Agency is of the view that while [the appellant] may have strong technical skills, [his] soft skills, including [his] management, leadership, and communication competencies do not meet the needs of [his] post. Therefore, it is not in the agency’s interests to renew [his] definite duration contract”.

39. The Tribunal considers this interpretation to be misconceived. It neglects the fact that the so-called soft skills constitute major elements of the appellant’s position and, as such, should have been evaluated in a regular performance appraisal procedure.

40. It is noted that, pursuant to the respondent’s letter of 10 September 2024, the appellant’s post description included, inter alia, “strong and effective communication and interpersonal skills, …ability to develop and lead diverse teams, …passion and motivation together with strong communications skills, to create a spirit of cooperation…”.

41. As quoted above, Article 3.1 of Annex VIII to the CPR states that the assessment of an overall performance should also be based on the staff member’s performance with respect to any competencies and/or attributes which have been established for his or her post. It follows that the so-called soft skills, obviously constituting important parts of the appellant’s job description as ‘Programme Support Manager’, should have been assessed within a regular performance appraisal procedure.

42. The Tribunal does not accept the Agency’s efforts to avoid this consequence by interpreting the appellant’s alleged lack of soft skills as an independent element of “conduct” which could be separately considered within the review of the organization’s interest. Such distinction is inappropriate and contradicts the clear and unambiguous internal rules on performance assessment. Any circumvention of these rules undermines the general principle of international administrative law that an international organization must strictly adhere to its self-created internal law.

43. In the present case, the Agency did not follow its own internal law regarding a proper performance assessment of the appellant’s alleged shortcomings. Although the appellant’s former supervisor presented a draft appraisal as early as December 2023, it took the Agency until 11 September 2024 to finalize the formal performance report without having ever made use of the necessary steps prescribed by the rules.

44. The Tribunal notes that there was no ongoing dialogue between supervisors and the appellant concerning individual, team, divisional and organizational objectives and

performance (cf. Annex VIII to the CPR, Article 1.1.). Neither was the appellant given the opportunity to comment formally on an appraisal (cf. Annex VIII to the CPR, Article 3.2).

45. With respect to the NSPA rules on "Employee Performance Management" of 1 June 2023, the Tribunal notes that the Agency failed to identify in a timely manner where the appellant's performance did not meet established expectations (cf. Article 5.2.2.1.11). Also, there is nothing on the record showing engagement with the appellant to provide feedback, coaching and guidance to address any identified performance issues on his part (cf. Article 5.2.2.1.12). No Performance Improvement Plan (PIP) was established, with input from the appellant and support from Human Resources, to formally address identified performance issues for which informal feedback, coaching and guidance might have proven insufficient (cf. Article 5.2.2.1.13).

46. In sum, while the Agency failed to address the appellant's alleged performance shortcomings in line with its own rules, the appellant was also not given a chance for improvement. These breaches of procedural provisions are serious and relevant. It is an open question whether the Agency would have opted for non-renewal, had the rules been followed. Therefore, the contested decision must be rescinded. Considering these circumstances, there is no need to enter into a discussion about an investigation that, in the respondent's view, revealed that the appellant did not demonstrate high standards of integrity.

On abuse of power, duty of care, and the principle of good administration

47. As the contested decision must be rescinded due to relevant procedural mishandlings, there is no need to look into the appellant's allegations regarding additional and other shortcomings in detail.

48. As a matter of clarification, the Tribunal emphasizes that there is insufficient evidence of abuse of power on the respondent's part. Previous legal disputes between the parties do not justify any such speculation.

49. However, as shown above, the irregular treatment of the matter had a serious impact on the appellant and his wish to stay with NSPA. Had the Agency used the tools of their performance management system carefully, the hasty and wrongful decision could have been avoided. In this respect, the Agency did not respect the principle of good administration and neglected its duty of care.

(iii) Remedies

50. The appellant does not seek re-instatement. Regarding material damage, the Panel takes note that the appellant found new adequate employment with NATO International Staff as from 6 August 2025, while his former contract with NSPA expired on 15 March 2025. Thus, any material damage is limited to the period between these dates.

51. Regarding justified expectations of renewal, as indicated above (see para. 46), it is an open question whether the Agency would have offered renewal or not, had it followed the mandatory procedure. From this perspective, the appellant's chances for a new contract can be estimated at 50%. Accordingly, the material damage to be

compensated for must be calculated on the basis of all emoluments the appellant would have received from the Agency during the period at stake, including, e.g., the education grant.

52. Regarding non-material damage, the Tribunal recalls its established case law pursuant to which the annulment of an act tainted with illegality may in itself constitute adequate and, in principle, sufficient reparation for any non-material damage that this act may have caused (see Judgments in Case No. 2016/1074 and in Case No. 2018/1267). However, where the Tribunal finds breaches of the duty of care and of the principle of good administration, compensation for non-material damage may be necessary (see Judgment in Case No. 2017/1111). Considering the serious effects on the appellant's career prospects, fair compensation is afforded by ordering the respondent to pay € 5,000 in compensation for non-material damage.

E. Costs

53. Article 6.8.2 of Annex IX to the CPR provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

54. The Tribunal finds that there were good grounds for the appeal. The appeal being successful in part, respective reimbursement of legal fees is justified.

F. Decision

FOR THESE REASONS

The Tribunal decides that:

- The decision of 9 September 2024 is annulled.
- The respondent is ordered to pay the appellant half of the totality of emoluments he would have received from 16 March 2025 to 5 August 2025, plus non-material damages of € 5,000.
- The respondent is ordered to reimburse legal costs up to the amount of € 3,000 to the appellant.
- All other pleas are rejected.

Done in Brussels, on 24 October 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

7 November 2025 AT-J(2025)0007

Judgment

Case No. 2025/1402

Appellant

v.

NATO International Staff
Respondent

Brussels, 29 October 2025

Original: English

Keywords: contributions to insurance schemes, proportionality, double punishment, equality of treatment, finality of judgments, consultation.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treat Organization (NATO), composed of Ms Louise Otis, President, and Mr Thomas Laker and Ms Anne Trebilcock, judges, having regard to the written procedure and further to the hearing of 9 October 2025.

A. Proceedings

1. The NATO Administrative Tribunal (the Tribunal) has been seized of an appeal, dated 13 April 2025 and registered on 22 April 2025 as Case No. 2025/1402, by [appellant] (the appellant) against the NATO IS (the respondent). The appellant requests that the Tribunal order the respondent:

- to adjust his contribution to the Long-Term Care (LTC) insurance scheme to be based on the actual amount of his pension payout as at 1 January 2025, and to reimburse the excess amount contributed;
- to provide the calculation of the LTC contribution based on the actual amount on his pension slip; and
- to publish the salary tables (old and new) by grade and step as a reference for the calculation of the LTC contribution.

He also seeks reimbursement of the costs of the appeal.

2. In its answer, dated 20 June 2025 and registered on 1 July 2025, the respondent invites the Tribunal to reject the appeal on the merits.

3. The appellant's reply, dated 31 July 2025, was registered on 8 August 2025. The respondent's rejoinder, dated 5 September 2025, was registered on 9 September 2025.

4. At the oral hearing held partly by videoconference and partly at NATO Headquarters on 9 October 2025, the Tribunal heard the statements and arguments of the appellant (self-represented) and of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

5. The appellant was a NATO staff member from 1 July 1979 to 31 July 2012, and has been a NATO retiree since 1 August 2012. Following disciplinary proceedings relating to his conduct while a staff member, his monthly pension benefits were permanently reduced by 60 percent, as is permitted under Article 59.3(f) of the NATO Civilian Personnel Regulations (CPR). This reduction did not affect his household allowance. For details, see AT Judgment in Case No. 2017/1104.

6. In October 2024, following a series of consultations, NATO decided to add Long Term Care (LTC) coverage as part of social security and insurance provided to serving and retired staff members. LTC coverage consists of monthly cash allowances payable to eligible persons for custodial care and reimbursement of home adaptation measures for functionally limited individuals under specified conditions.

7. On 20 January 2025, the appellant received a brochure from the insurance company selected to provide LTC coverage as from the beginning of that month. The brochure, sent by the company, stated that "NATO is pleased to inform you, following consultations with the Joint Consultative Board (JCB) – particularly with the Confederations of active and retired staff, the Supreme Allied Commanders and the Secretary General have endorsed the proposal to introduce Long Term Care (custodial care and home adaptations) as part of your NATO medical cover. These new benefits will take effect from the 1st January 2025." The brochure set out the types of benefits, the eligibility criteria and the basis for calculating contributions. The staff contribution, one-third of the total, for retirees was calculated on the basis of "0.3% of their basic salary, based on the grade and step held at the time of departure from the Organisation." The brochure promised further details, to be "shared with you shortly." In case of questions, the brochure indicated a toll-free telephone number for several countries (but not the one in which the appellant was living), along with a website.

8. The appellant's pension slip for February 2025 included a communication relating to introduction of LTC as of 1 January of that year. It noted that "retired staff contribution amounts to 0.3% of the basic salary of the grade/step held at the time of departure from the Organization." It provided a Belgian telephone number for use in case of questions. His pension slip for July 2025 showed the amount of contribution deducted for LTC, but not the basis on which it was calculated.

9. The appellant wrote to the company on 20 February 2025 to confirm that LTC applied to him and his wife, while challenging the amount of his contribution to the scheme.

10. In that letter of 20 February 2025 to the insurance firm, the appellant challenged the amount of the contribution made for LTC cover, since "NATO had permanently stolen 60% of [his] pension 4 years after [his] departure by a fraudulent disciplinary procedure". The firm replied on 27 February 2025 that this was not something that it could adjust, as these are standard terms and conditions. The firm's care representative suggested that he contact the NATO Pension Unit. The appellant then did so by email on the same date.

11. After a further communication from the appellant to the email address for NATO Pensions, the Pensions Unit on 25 March 2025 provided him with a calculation that showed the current salary corresponding to the last grade and step he had held (grade A3, step 11). The calculation was based not on the actual pension payment he received (i.e. 40 percent of the non-reduced pension) but rather on the full current salary corresponding to the last grade and step held, as stated in the brochure.

12. The pension slip for July 2025 shows the actual amounts of retirement pension benefits and household allowance the appellant receives, minus the deductions made for medical coverage and LTC coverage. As shown there, the amount deducted from the appellant's pension for LTC coverage is €36.85 per month. If his one-third share of the contributions to this insurance scheme were to be based on the actual pension plus household allowance received as at 1 February 2025, the amount he would pay for LTC coverage would be 40 percent of that sum, i.e. €14.74 per month. Both the pension benefits and the contributions for LTC coverage can be adjusted over time (most likely upward).

C. Parties' principal contentions, legal arguments, and relief sought

(i) The appellant's main contentions

13. The appellant claims that the Organization entered into a legal contract with the insurer without prior consultation or information to retirees. He alleges that use of the last grade/step at work, instead of the actual pension payout, violates Article 50.2 of the CPR. In his view, this is disproportionate. He sees a lack of transparency in two respects: NATO not indicating the calculation of the contribution to LTC coverage and not publishing the salary scales used as baselines for that calculation. The use of a fictitious salary level as a basis for pensioners, while the actual salary is used for serving employees, violates the principle of equal remuneration, he contends.

14. The appellant argues that the drastic 60 percent reduction in his pension should have been taken into account to ensure a fair and proportionate arrangement. Further, he maintains that use of the fictitious amount as a basis for calculating his contributions constitutes a double punishment, "as the pension payment has already been illegally reduced."

15. The appellant initially claimed that instead of €36.85 per month for the LTC coverage, he should pay only €9.61 per month, while in his reply, the appellant stated that the fair deduction based on the actual pension payout would be €14.74. A reduced sum would reflect that he was only actually receiving 40 percent of his pension.

16. He reiterates that the 60 percent cut of his pension occurred "through fraudulent measures, blessed by appeal 1104, which are still judicially being investigated…".

17. The appellant's reply seeks to refute the respondent's statements in relation to the motivation behind NATO's decision to reduce the amount of his basic pension. In addition, he argues that he received no information prior to the implementation of the LTC coverage, and claims that the legal status and representative function of the Confederation of NATO Retired Civilian Staff Associations (known as "CNRCSA") are unclear.

18. He reiterates that using a 100 percent contribution rate for a pension that has been reduced by 60 percent is inequitable and results in a disproportionate financial burden that will increase over time; using two separate standards is, he alleges, contrary to principles of international administrative law. In support, he cites Annex XII to the CPR which concerns contributions based on actual salary for persons engaged in part-time work and job-sharing. He again cites the principles of equal treatment, non-discrimination, proportionality, and legal certainty. In support, he refers to *Eurocontrol v Complainant* (ILO Administrative Tribunal Judgment No. 2847), *Eurocontrol v Complainant* (ILO Administrative Tribunal Judgment No. 3571) and *Mr. R v IMF* (2002-1). At the oral hearing, the appellant stressed what he saw as the unfairness of the situation he was facing.

(ii) The respondent's main contentions

19. The respondent does not contest the admissibility of the appeal. However, it argues that part of the appellant's claim is moot, since certain information he had requested has already been provided (the explanation of the calculation of his LTC coverage contribution). Further, the respondent argues that the appellant's request to introduce a detailed breakdown of the LTC contribution on the pension slip of retired staff members, and to publish salary scales by grade and step for pensioners on the website of the NATO Pension Unit, exceeds the powers of the Tribunal under Article 6.9 of Annex IX to the CPRs.

20. As to the merits, the respondent requests dismissal of the appeal as unjustified. It first points to "a certain incongruence" in the appellant's questioning of the legality of the newly introduced LTC coverage and his affirmation that it applies to him and his wife. While urging the Tribunal not to address the appellant's challenge to the introduction of the scheme, the respondent sets out the history of preliminary consultations regarding it. It argues that the LTC coverage, including the calculation of premiums, rests on a solid legal basis. The respondent also notes that the appellant has not objected to receiving 100% of his household allowance.

21. The respondent refers to the consultations that led to adoption of the LTC coverage. It notes that the CNRCSA did not object to using the current salary of serving staff as the basis for calculating contributions. The respondent argues that linking the contributions of both serving and retired staff members to these salary scales was informed by the principle of solidarity, since serving staff members pay the bulk of contributions while retired staff are the main beneficiaries of LTC. Citing Tribunal jurisprudence relating to the Retirees' Medical Claims Fund (e.g. AT Judgment in Joined Cases Nos. 2020/1294-1296), the respondent argues that use of the last salary, rather than the actual pension, is not unlawful or discriminatory. It also points out that the actual monthly amount involved in this appeal is quite modest.

22. Finally, the respondent argues that LTC contributions are conceptually separate from the actual pension and argues that in case of eligibility, the appellant would receive the full LTC benefit, instead of 40 percent f it. It rejects the appellant's claims of alleged discrimination and double punishment, and reproaches him from again questioning the underlying decision to reduce his pension.

23. In its rejoinder, the respondent contests the appellant's reading of the cases he has cited. The respondent also notes that his citation of Annex XII to the CPRs is misplaced, since he enjoys full coverage under the LTC scheme, and it is only logical that he should pay the full contribution for this. Finally, the respondent recalls that the pension is automatically indexed on a yearly basis, thus undermining the appellant's claim of hardship due to possibly increasing contributions to LTC coverage over time.

D. Considerations and conclusions

Competence of the Tribunal

24. The Tribunal finds that the appeal is admissible under CPR Article 62.2, which permits retired staff to submit a matter directly to the Tribunal, and under CPR Article 61.1 on the scope of the Tribunal's review, except to the extent that the appeal attempts to relitigate or call into question any of the findings and conclusions in Tribunal Judgment 2017/1104 involving the same parties. As Article 6.8.3(a) of Annex IX to the CPR provides, "judgments of the Tribunal shall be final and not subject to any type of appeal by either party…". The Tribunal recalled this in its Judgment of 22 February 2024 in Case No. 2023/1375. As the appellant himself notes in the current case, the background that led to the reduction in his pension is irrelevant to the matter now under appeal. Its ruling is however relevant to this appeal, as stated in paragraph 36 below.

25. The respondent had argued that certain remedies requested by the appellant would be outside the powers of this Tribunal. The Tribunal recalls that its competence is specified, *inter alia*, in Article 6.9.1 of Annex IX to the CPR, and can include ordering specific performance of an obligation. The Tribunal rejects the respondent's narrow interpretation of its powers in relation to possible remedies as inconsistent with this provision.

Legal basis, consultation, transparency and information

26. The Tribunal notes that the LTC coverage was introduced at the request of the Confederation of NATO Retired Civilian Staff Associations (CNRCSA) and the Confederation of NATO Civilian Staff Committees (CNCSC). As reported in the CNRCSA New Year's Newsletter dated December 2024, it had made proposals for additional coverage for LTC. Discussions within the Joint Consultative Board (JCB), on which the CNRCSA and CNCSC are represented along with the Administrations, led NATO to engage with the insurance company to develop an LTC plan. The LTC proposal was endorsed by the Secretary General and the Supreme Allied Commanders in October 2024, upon the recommendation of the JCB. The consultation of retirees in relation to such proposed changes does not mean that each individual retiree must agree to them (see AT Judgment in Case No. 2023/1356, paragraph 79).

27. The legal basis for adding the LTC coverage was Article 47.1(e) of the CPR, which stipulates provision of "any additional insurance which may be concluded for the benefit of the staffs of individual NATO bodies at the specific request of the Staff Associations concerned." As this Tribunal has earlier found, provisions relating to an insurance plan are statutory provisions whose terms can be modified if this is in the interest of the service; introduction of a new, non-retroactive contribution does not in itself constitute a contractual change involving acquired rights (see AT Judgment in Joined Cases Nos 2020/1294-1296, paragraphs 102-109). This is also the case with the introduction of LTC coverage, which exists to benefit retirees and staff should a need for such care arise.

28. The amount of contribution an individual makes to the LTC coverage is based on the current salary payable for the person's last grade/step – in this case, Grade A3/step 11. The corresponding amount is set out in PO(2024)0342. The brochure provided to

retirees in January 2025, as well as the appellant's February 2025 pension slip, informed the appellant of the basis on which the contribution to LTC was calculated. The explanation was also provided to the appellant in individual correspondence with the Pension Unit. The respondent was not under any obligation to repeat this statement on subsequent pension slips. Nor was it required to publish the salary scales for pensioners. The aspects of the appellant's claim relating to the provision of information are thus moot or unfounded.

29. As shown in the pension slips for February and March 2025, the first deduction was made in March, in an amount covering two months' contributions (February and March). Information about introduction of the LTC insurance was provided prior to 1 February 2025. While the period of advance notification of the amount of contributions was short, the new provision was not introduced retroactively, and the amount of the monthly contribution was modest. Moreover, the topic of LTC had been under discussion for some time.

30. In the light of the above, the appellant's challenge to the legal basis of the LTC coverage and the allegations of a lack of consultation and transparency thus fail.

Basis of calculation, solidarity, and unjust enrichment

31. Article 48 of the CPR provides the authority for NATO to "determine the method of insurance … and to enter into the necessary agreements to that end…." The general rule for payment of contributions to group insurance schemes is set out in Article 50.2 of the CPR: they are "payable two-thirds by the Organization and one-third by members of the staff." Article 51.2 on group insurance schemes applies the same cost sharing formula to retirees. This is also the approach taken to LTC coverage.

32. Contributions to LTC coverage for all retirees are based on the same formula, reflecting the most recent pay scale corresponding to the last grade and step held. The scheme reflects the reality of rising costs over time as well as the overall concept of solidarity in social insurance. This concept "broadly means that all affiliates, whether active or retired, contribute to the insurance without expecting to receive an equivalent amount in benefits."(see AT Judgment in Case No. 2023/1356, paragraph 87). The imposition of a heavier burden on some is not in itself an infringement of the principle of solidarity (*ibid.*, paragraph 89).

33. The appellant's analogy relating to staff working part-time and job sharing is inapposite, since according to the respondent, the reduced contributions are also reflected in reduced benefits. Here, the appellant, if eligible, would receive full benefits under the LTC scheme.

34. Nor does the appellant's claim of NATO's unjust enrichment apply to this situation, since NATO itself does not receive the contributions for LTC cover; it simply passes them on to the insurer on behalf of the retiree. The appellant's reliance on the cases he cited from other international administrative tribunals is misplaced, as noted by the respondent, which had correctly characterized their rulings.

Equal treatment and non-discrimination

35. The appellant has claimed violation of the principle of equality of treatment and non-discrimination in relation to the contributions to LTC coverage on the grounds of his receipt of a reduced pension. Equality of treatment calls for treating equal circumstances equally, but may also call for different treatment where unequal circumstances exist. In this case, all retired staff are required to pay 0.3% of their (different) last basic salary (based on their grade and step at the time of retiring), but the appellant alone has only 40% of that sum from which to deduct contributions to LTC cover. This constitutes impermissible discrimination against him.

36. In light of the above, the Tribunal finds that the principle of equal treatment has been violated in the unique circumstances of this case. The amount of the appellant's contributions to LTC coverage should be reduced to reflect 40 percent of the amount he would normally owe for it. This result will also provide continuing effect to the Tribunal's Judgment in Case No. 2017/1104, which had endorsed a 60 percent reduction in his pension.

Alleged double punishment; proportionality

37. In light of the above finding in relation to equality of treatment, there is no need for the Tribunal to address the allegations of double punishment or proportionality.

E. Costs

38. Article 6.8.2 of Annex IX to the CPR provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

39. In the circumstances of this case, where relief has been granted in part and the appellant is self-represented, the respondent shall reimburse the appellant for costs in the amount of €300.

F. Decision

FOR THESE REASONS,

The Tribunal decides that:

- The request to reduce the amount of the appellant's monthly contribution for Long Term Care coverage to 40 percent of the amount he would normally owe is granted.
- NATO IS shall reimburse the appellant for contributions he has made that were in excess of 40 percent of the amount of his contribution to Long Term Care.
- NATO IS shall pay the appellant €300 in costs.
- All other pleas are rejected.

Done in Brussels, on 29 October 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

26 January 2026 AT-J(2026)0001

Judgment

Case No. 2025/1408

Appellant

v.

NATO Support and Procurement Agency
Respondent

Brussels, 15 January 2026

Original: French

Keywords: non-renewal of contract owing to physical incapacity; admissibility.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (hereinafter “NATO”), composed of Ms Louise Otis, President, Ms Seran Karataru Köstü and Mr Fabien Raynaud, judges, having regard to the written procedure and further to the hearing on 18 December 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter "the Tribunal") has been seized of an appeal by [*name*] (hereinafter “the appellant”), against the NATO Support and Procurement Agency (hereinafter “the Agency”). The appeal, dated 11 June 2025, was registered on 20 June 2025 as Case No. 2025/1408. The appellant asks the Tribunal, *inter alia*, to annul the decision of 23 April 2024 whereby he was informed that his contract had ended on 31 March 2024 pursuant to Article 9.1.ii of the NATO Civilian Personnel Regulations (hereinafter “the CPR”), and to order the Agency to pay him €162,165.04 in material and non-material damages.

2. The respondent's answer, seeking dismissal of the appeal, was submitted on 16 September 2025 and registered on 23 September 2025.

3. The appellant's reply, seeking the same relief as in the appeal, was submitted on 22 October 2025 and registered on 23 October 2025.

4. The respondent's rejoinder, seeking dismissal of the appeal, was submitted on 18 November 2025 and registered on the same day.

5. An oral hearing was held on 18 December 2025 at NATO Headquarters. The Tribunal heard arguments by the parties, in the presence of Ms Laura Maglia, Registrar.

B. The parties’ submissions

6. The appellant is seeking annulment of the decision of 23 April 2024 whereby he was informed that his contract had ended on 31 March 2024. He is also seeking an order for the Agency to pay him €162,105.04 in material and non-material damages arising from the impugned decision. Lastly, he is seeking an order for the Agency to pay the costs.

7. The Agency is seeking dismissal of the appeal.

C. Factual background of the case

8. The appellant […] began working for the Agency in 2011, first as a temporary staff member and then as a consultant. In 2017, he was recruited as a staff member to perform technician duties at B5 level. In October 2021, following the deletion of his post as part of a service reorganization, he was reassigned to the naval support section.

9. On 26 May 2023, he was informed by letter that his contract would not be renewed beyond 31 December 2023 owing to his unsatisfactory performance. He filed a request for complaint on 22 June 2023, but his request was dismissed and the non-renewal confirmed on 14 July 2023.

10. On 8 September 2023, the appellant submitted an appeal to the Tribunal seeking annulment of that decision and payment of material and non-material damages arising from it. In a judgment dated 19 August 2024, the Tribunal annulled the impugned decision and ordered the Agency to pay €5,000 to the appellant in compensation for the non-material damage suffered and to reimburse him for the legal costs incurred, but it dismissed his other submissions.

11. However, an invalidity procedure had been initiated in parallel to the proceedings before the Tribunal. In a letter dated 19 April 2024, the appellant was informed that as a result of the independent medical assessment performed by the insurance company's doctor on 15 March 2024, his temporary invalidity rate had been set at 66%, entitling him to a permanent partial invalidity pension at a rate of 60% from 1 April 2024.

12. In a letter dated 23 April 2024, entitled "termination of your contract", the Head of Payroll and People Services informed the appellant that as he had been paid a permanent partial invalidity pension, with his consent, since 1 April 2024, his contract had ended on 31 March 2023 (actually 31 March 2024) on the grounds that he was incapacitated for service pursuant to Article 9.1.ii of the CPR.

13. Additionally, in a letter to the Administration dated 9 September 2024, the appellant wrote: "Pursuant to the NATO Administrative Tribunal's decision of 19 August 2024, I would like to ask you to keep me informed about the renewal of my contract." In a letter dated 17 September 2024, the Administration replied that as the appellant had "been found to be permanently incapacitated [...] effective 1 April 2024", his contract had "been terminated on the grounds that you are incapacitated for service pursuant to Article 9.1.ii of the CPR" on 31 March 2024. "This termination on the grounds of incapacity for service has broken the causal link between the decision not to renew your contract and the end of your employment."

14. In a letter dated 6 January 2025, the appellant wrote that, following the Tribunal's judgment, he considered that his contract had not been terminated and asked what the Administration intended to do about his case. In a letter dated 8 January 2025, he was informed that the decision of 23 April 2024 had been communicated to him, that he had not contested it and that it had therefore become final. The letter also stated that he had completed the administrative requirements for the payment of his permanent partial invalidity pension, which had replaced his contract, and that no action would be taken in response to his request.

15. In a letter dated 3 April 2025, the appellant filed a complaint against the decision of 23 April 2024 terminating his contract and sought compensation for the damage that he claimed to have suffered, on the basis of Articles 61.3 and 61.4 of Annex IX to the CPR. The complaint was rejected in a letter dated 25 April 2025.

16. The present appeal is directed against the decision of 23 April 2024, as well as the decisions of 8 January and 25 April 2025.

D. The parties' arguments

17. The appellant argues that the decision not to renew his contract is illegal for the following reasons:

- his contract was terminated whilst an appeal against the decision of 14 July 2023 not to renew his contract beyond 31 December 2023 was before the Tribunal;
- the impugned decision of 23 April 2024, whereby he was informed that his contract had been terminated on 31 March 2024, was at the very least ambiguous insofar as that contract had ended on 31 December 2023;
- following the Tribunal's judgment of 19 August 2024 annulling the decision of 26 May 2023, the appellant's contract should have been renewed; however, NATO did not contact the appellant following the judgment, did not offer him any resolution and did not even request that he see a medical adviser, thereby refusing to execute the Tribunal's judgment;
- in addition, the impugned decision was sent to the appellant while he was on sick leave;
- in reality, the Administration was merely trying to get rid of the appellant, as it had been attempting to do for several months, in breach of the principle of non-discrimination;
- the appellant had never refused to come to work, even if his psychological condition meant he could no longer work in the service he had been assigned to since 2021;
- the non-renewal of his contract had been planned from the start, whereas it should only have been considered as a last resort;
- the contested decisions caused him to suffer material and non-material damage, which he assesses at €62,165.04 and €100,000 respectively, for which he is seeking compensation.

18. The Agency contends that the appeal is clearly inadmissible as it was submitted after the time limit and, in the alternative, is unfounded and must therefore be rejected.

E. Ruling of the Tribunal

On the admissibility

19. Article 61.1 of the CPR provides that NATO staff members may challenge decisions affecting their conditions of work or of service, provided that they have exhausted administrative review as prescribed in Article 2 of Annex IX to the CPR, which states that staff members may initiate this process within 30 days after the contested decision has been notified to them. If their complaint is rejected, staff members have 60 days from notification of the rejection to submit an appeal, if they wish to do so. As the Tribunal held in its judgment in Case No. 2022/1341, "[i]t is well settled that time limits have to be respected and that non-respect of time limits, including during the pre-litigation phase, entails inadmissibility of an appeal".

20. In the present case, the case file shows that the appellant was notified of the impugned decision on 23 April 2024. The appellant, who moreover completed the administrative requirements for the payment of a permanent pension on the grounds of temporary partial invalidity, did not contest it at that time.

21. It is true that at that time there was a case before the Tribunal concerning the validity of the decision of 14 July 2023 not to renew his contract beyond 31 December 2023 on the grounds of unsatisfactory performance.

22. However, as emphasized by the Administration, the two decisions are not alike. The decision of 14 July 2023, challenged by the appellant before the Tribunal, consisted in not renewing his contract beyond 31 December 2023 on the grounds of unsatisfactory performance. The decision of 23 April 2024 consisted in terminating the appellant's contract on 31 March 2024 on the grounds of his physical incapacity; unlike the preceding decision, this decision resulted in the appellant's being paid a pension equating to 60% of his salary for the duration of his permanent partial invalidity, which the appellant did not challenge and for which he returned the documents that had been sent to him.

23. The appellant did not challenge the decision of 23 April 2024, neither within the framework of the case before the Tribunal at that time concerning the decision of 14 July 2023, nor in the letter that he sent on 9 September 2024. It was not until 6 January 2025, long after the time limit fixed in Article 61.1 of the CPR, that the appellant challenged the decision of 23 April 2024, and even then, he did not clearly identify it at that stage. And it was only in a letter dated 3 April 2025 that he criticized the information that had been communicated to him on 17 September 2024 and officially contested the decision of 23 April 2024.

24. The Tribunal's judgment of 19 August 2024, to which the appellant refers, annulled the decision of 14 July 2023 not to renew his contract beyond 31 December 2023. The appellant emphasizes that he was in an ambiguous situation insofar as he had been notified by the decision of 23 April 2024 of the termination of his contracton 31 March 2024.

25. However, the case file shows that the appellant was on uninterrupted sick leave as from 12 September 2022 and that his contract had therefore been extended until a

decision had been reached about his health and physical fitness, in accordance with Article 45.7 of the CPR, which led to the contested decision.

26. In these circumstances, the Administration is right to contend that the appeal against the contested decision is time-barred and that this decision has become final. Consequently, the appeal filed by the appellant against this decision, whereby he seeks payment of damages arising from it, is inadmissible and must therefore be rejected.

F. Costs

27. Article 6.8.2 of Annex IX to the CPR provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

28. The appeal being dismissed, no reimbursement of costs is due.

G. Decision

FOR ALL THESE REASONS,

the Tribunal decides:

- The appeal is dismissed.

Done in Brussels on 15 January 2026.

(signed) Louise Otis, President
(signed) Seran Karatarı Köstü, Judge
(signed) Fabien Raynaud, Judge

(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

26 January 2026 AT-J(2026)0002

Judgment

Case No. 2025/1407

Appellant

v.

Defence Innovation Accelerator for the North Atlantic

Respondent

Brussels, 20 January 2026

Original: English

Keywords: probationary period; freedom of association; right of defence.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treat Organization (NATO), composed of Ms Louise Otis, President, Mr Fabien Raynaud and Ms Anne Trebilcock, judges, having regard to the written procedure and further to the hearing of 18 December 2025.

A. Proceedings

1. The NATO Administrative Tribunal (the Tribunal) has been seized of an appeal, dated 21 May 2025 and registered on 4 June 2025 as Case No. 2025/1407, by [*name*] (the appellant), against the Defence Innovation Accelerator for the North Atlantic (DIANA) (the respondent). The appellant requests that the Tribunal:

- annul the decision dated 27 March 2025 whereby the DIANA Head of NATO body (HONB) informed the appellant of the early termination of her employment contract during her probationary period;
- order the respondent to (i) pay compensation for material and non-material damage suffered and (ii) pay all costs of the appeal.

2. In its answer, dated 5 September 2025 and registered on 16 September 2025, the respondent invited the Tribunal to reject the appeal on the merits.

3. The appellant's reply, dated 16 October 2025, was registered on 21 October 2025. The respondent's rejoinder, dated 21 November 2025, was registered on the same day.

4. At the oral hearing held partly via videoconference at NATO Headquarters on 18 December 2025, the Tribunal heard the statements and arguments of the appellant and her legal counsel, and of the respondent, in the presence of Ms Laura Maglia, Registrar.

5. At the end of the hearing, the President of the Tribunal invited the appellant and the respondent's representative to express their views briefly, as foreseen by Rule 26, paragraph 4(b) of the Rules of Procedure of the Administrative Tribunal in Appendix 1 to Annex IX to the NATO Civilian Personnel Regulations (CPR) with respect to both parties. The Tribunal notes that opinions expressed by the parties do not constitute testimony that can be considered in the examination of evidence for the purposes of rendering a judgment.

B. Factual background of the case

6. In the spring of 2024, the appellant responded to a vacancy notice which set out, *inter alia*, an overview of DIANA and of the role of [*position*]. Following an offer and acceptance of a post at the grade of G11 step 1, the appellant was employed as [*position*] in DIANA at its regional office in Halifax, Nova Scotia, Canada under a definite duration contract dated 29 October 2024. The appointment was effective 2 December 2024 and was to terminate on 1 December 2027, with the possibility of a further appointment.

7. The contract of employment stated, *inter alia*:

> The first six months of this appointment will be considered as a probationary period. During this period, either the staff member or the Organization can terminate the contract by giving 30 days' notice in writing. At or before the end of this probationary period, the staff member will be informed in writing that the contract is confirmed, or that it is terminated with 30 days' notice, or, as an exceptional measure, that one further six months' probationary period is necessary. (paragraph 9 of the contract) […]
>
> The Organization has the right to bring the contract to an end for due and valid reasons as permitted by Article 9 of the Civilian Personnel Regulations." (paragraph 11 of the contract).

The contract specified that the NATO CPR and NATO security regulations applied (paragraph 12 of the contract).

8. DIANA became a NATO body on 1 July 2023, with units in Halifax, London (United Kingdom) and Tallinn (Estonia). The appellant worked remotely from the London duty station (DIANA's Headquarters) before commencing work in Halifax on 6 January 2025. She received an installation allowance to defray the cost of moving to Canada. During her onboarding in early December 2024, she requested the organization chart of DIANA; the Senior Human Resources (HR) business partner of DIANA provided this on the understanding that it not be shared. When the appellant asked him about creating a separate organizational chart for the Halifax office, he said that HR was following the DIANA Managing Director's instruction not to create multiple personnel establishment documents, and that the appellant should follow this guidance.

9. On 27 January 2025 a DIANA temporary staff HR officer met with the appellant to explain why the latter's requests for information and speedier action on recruitment, in particular of an administrative assistant, could not then be met. The temporary HR officer reported on the conversation to the Senior HR business partner. Earlier that month, the appellant had initiated an exchange with the security lead, in which she had requested consideration of changing the system of receiving visitors on the ground floor. Her request noted that no one had this responsibility in their contract.

10. As from 3 February 2025, the appellant's direct supervisor, took up her post in Halifax. According to the supervisor, in an early meeting, the appellant had expressed criticisms and concerns regarding her grade and the duties she was being assigned. Initially the interaction between the two was cordial. On 19 February 2025, the appellant replied to a written request to support visits and travel for the supervisor and another manager by saying that she could not add these travel tasks to her daily work routine; she nevertheless performed these tasks and was thanked by the supervisor in writing on 27 February 2025. Between 11 and 13 February 2025, the respondent reports, the appellant continued to seek information on each DIANA staff member's title, duty station and supervisor.

11. In the meantime, the appellant and the supervisor discussed elements for her performance reviews, with the supervisor commenting on 27 February 2025, "I think we are very aligned on a direction for the next six months!" On 28 February 2025, the two signed a staff assessment form for "6 months objective setting – probation". The detailed and extensive objectives appeared under three headings: (a) office set-up, development

of procedures and governance framework; (b) coordination and reporting for strategic decision-making; and (c) onboarding and HR process implementation for staff in Halifax. Measures of completion were set out for each, with many involving setting up systems and procedures and some relating to onboarding of staff.

12. When the appellant joined DIANA, a Halifax-based Civilian Staff Association (CSA) was yet to be set up. With the aim of establishing a constitution and procedures for the election of the Civilian Staff Committee (CSC), the CSA Working Group was created. One of the members was a designated HR staff member. A group chat discussion about this took place between 3 and 27 March 2025. In it, the appellant, along with other participants in the chat, expressed some doubts about the non-transparent and somewhat fluid organizational chart of DIANA in relation to eligibility to vote and independence of the CSC from HR. On 3 March 2025, the appellant "liked" a proposal made by the HR staff member in this connection. In a discussion of how the names for nomination would be managed, the appellant commented on 6 March that HR should not be gatekeeping the nominations. Once the procedural steps for the election had been worked out through the group chat, on the morning of 17 March 2025 the appellant praised the colleague who had done the agreed summary. The record of the chat showed that it was neutral and professional in tone.

13. In the afternoon of 17 March 2025, the appellant's supervisor sent her an email proposing to meet to "discuss some concerns that have been raised by HR in London about the CSA Working Group meeting on March 3rd. I gather that you had many criticisms of the organization (org structure, reporting lines, etc), and it was felt that the purpose of the meeting i.e., publication of the constitution, was getting derailed." She urged the appellant not to lose sight of "how hard the HR team has worked and how far the organization has come in less than 2 years. The leadership at DIANA is intentionally doing things differently and we need to be supportive."

14. A series of emails followed on the same day (17 March 2025). First, the appellant replied, "Ow wow. I am speechless. But my understanding of the CSA and staff association in general is that points I am raising here are protected against retaliation and surely have no implication of me as a DIANA staff. So, raising an official complained [sic] with my supervisor seems enormously out of line for me. That being said, I had no complaints against HR nor the work they are doing…". The supervisor quickly clarified that there was not any kind of formal complaint, "but concerns have been raised about the tone and your ongoing criticism of the organization (many of which you have also raised with me directly). I worry this could [be] affecting morale of the HR team so let's have a chat and hopefully we can sort a constructive way forward…." In reply, the appellant expressed willingness to meet, but suggested that the supervisor first talk with the lead of the CSA Working Group, who had participated in its exchanges. The supervisor responded that she was "just looking to understand your perspective more generally with regard to workplace communication style and to see if I can help with anything." In reply on the same day, the appellant stated, "I am completely shocked and would kindly ask you to get a second opinion with [the lead of the CSA Working Group] about this… My perspective currently is the sheer abuse of power from HR and unlike my previous remarks, this hereby is a direct criticism of HR and their way of working."

15. Two days later, on 19 March 2025, the appellant was one of several candidates nominated to stand for election as Vice-Chair of the CSC, and she accepted the nomination. On 20 March 2025, the supervisor and the appellant met to discuss the concerns described above.

16. In parallel to these events, in various communications and meetings involving the Senior HR official and the appellant's supervisor between 11 February and 24 March, they shared concerns to each other about the appellant's behaviour. On 10 March 2025, the options considered were coaching, formal probation review at the six months mark, or immediate termination. On 17 March, the supervisor recommended to the Senior HR business partner that termination would be advisable. One week later, the supervisor expressed doubts about the appellant onboarding a new staff member who was to start on 1 April 2025.

17. On 27 March 2025, while the appellant was working from home, the Managing Director (the HONB, who has since been replaced) adopted the disputed decision to terminate her employment with immediate effect. During a phone call on that day with the appellant about ongoing work, the supervisor asked her to come to the office on the following day, without mentioning termination. On 28 March 2025, at a meeting that began at 12:09 p.m. and ended at 12:32 p.m., the supervisor handed the appellant the decision of the HONB. The Senior HR business partner also attended the meeting remotely. According to the appellant, the reason given verbally for the early termination of her contract was her "not being a team player." A written statement from the supervisor, appended to the rejoinder, confirmed this and mentioned doubts about the appellant in relation to the future onboarding of the administrative assistant.

18. The HONB's short letter to the appellant, dated 27 March 2025, states: "Following the feedback received and upon recommendation from your line manager, I am writing to formally notify you of the termination of your employment with the DIANA Executive." It continued, "as you are still within your probation period, your contract stipulates that a notice period of 30 days applies. However, in the best interest of all parties, your services will no longer be required effective immediately. You will be compensated in lieu of this notice period …". The letter also covered some practical arrangements such as maintenance of health insurance until 30 April 2025. According to the appellant, she was not offered an opportunity to present her views during the meeting.

19. While the meeting was underway, the IT service acted on instructions to block the appellant's computer access immediately. The appellant's supervisor escorted her to the exit. Not long after the meeting, HR sent a staffing update to inform staff that effective immediately, the appellant was no longer with DIANA and expressing thanks for her contributions. As of the time of the hearing, she was still unemployed.

20. The appellant received compensation in lieu of the notice period of 30 days, ending on 30 April 2025. She was not able to participate in the SC elections, although her name still appeared as a candidate on the ballot, which was dated 19 March 2025. The election for the CSA was held in April 2025.

21. On 15 May 2025, the Chair of the Confederation of NATO Civilian Staff Committees (CNCSC) wrote on behalf the appellant, who still had a valid security clearance, to the Office of the General Counsel of DIANA, requesting despatch of the

group chat concerning the election from 3 March 2025 onwards, the full content of the email exchange of 17 March 2025, a specified folder on the user desktop and an email tracking her uploading of “performance review objectives”. The legal office acknowledged receipt on 15 May 2025 and noted that “there is no legal basis on which DIANA can provide the requested data to the former employee at this time.” The author also suggested contacting the now established CSA of DIANA. Shortly afterwards, the General Counsel sent a message to all staff to alert them of a request for information from a former staff member and to warn them against sending such data.

C. Summary of parties' contentions, legal arguments and relief sought

(i) The appellant’s major contentions

22. The appellant contests the decision dated 27 March 2025 whereby the Head of the NATO body (HONB) informed her of the early termination of her employment contract during her probationary period. She also seeks compensation for the material and non-material damage allegedly suffered, as well as costs.

23. The appellant contends that the relevant rules in this case are Articles 6.4, 7.1, 9 and 10 of the Civilian Personnel Regulations (CPR), along with the case law cited in the appeal. She argues that the respondent breached her right to be heard and her rights of defence.

24. In addition, she argues, the respondent disregarded the principle of sound administration, in particular the duty to provide reasons for the decision and the duty of care. She maintains that she was given no opportunity to comment on the decision or explain her interests. This, she asserts, damaged her reputation and left her much worse off mentally and professionally. She claims that the timing of the termination of her contract prevented her from running in the CSC elections. In addition, she challenges having been prevented from collecting information to assist in her defence.

25. She maintains furthermore that the respondent made a manifest error of assessment, or in the alternative, breached the principle of proportionality, especially taking into account the short time she and her supervisor had worked together. The concerns expressed about the appellant’s comments in the group chat for the CSC elections were in her view unfounded; moreover, they were unrelated to the performance of her duties under her contract. Had there been legitimate concerns about performance, the respondent could have extended the probationary period, she argues.

26. Furthermore, the appellant alleges that the respondent breached her right to freedom of expression and freedom of association and engaged in an abuse of power. In her view, the respondent had decided to terminate her contract as an act of retaliation and to prevent her from running for election to the CSC. Recalling that freedom of expression is a fundamental right, she contends that in relation to arrangements for the election, she along with others had raised legitimate questions about the internal organization of DIANA, using quite normal language. In addition, she argues, the abrupt termination of her contract also violated the collective rights of the CSC to freedom of

association, which precludes interference by an organization in the affairs of a staff union. Finally, the appellant maintains that this retaliatory measure entailed an abuse of power.

27. In her reply, the appellant contests the respondent's account and interpretation of various events, and pointed to tasks performed outside her role, along with positive feedback received from her supervisor. She attached a statement by the CNCSC Executive Committee regarding her case; it raised concerns about the overall situation in DIANA (with documents appended) and the time-lag between its start of operations and the organization of an election for the CSC. The CNCSC statement also viewed the warning to staff about access to files as creating a climate of fear and intimidation.

(ii) The respondent's major contentions

28. The respondent does not question the admissibility of the appeal, but calls for its dismissal, in its entirety, on the merits. The respondent disputes the appellant's portrayal of her behaviour, and points to a number of exchanges and meetings from mid-January to mid-March 2025. In the Agency's view, she repeatedly refused to undertake any work that she did not deem, in her own view, to be sufficiently covered by a specific element of her contract, and had a confrontational communications approach with a range of colleagues. The respondent recalled the exchange between the appellant and her supervisor on 17 March 2025, and provided a timeline that included internal discussions held between 10 and 24 March 2025 in which the supervisor, the Senior HR business partner and the General Counsel had explored options to address the situation.

29. The respondent maintains that it provided feedback to the appellant on many occasions. The Agency argues that under Article 6 of the CPR, it had an unequivocal right to terminate the appellant's employment by giving 30 days' written notice "at or before the end" of the probationary period, as provided in her contract. A decision as to whether a person is a good fit for his or her job with the organization is a discretionary decision which is subject to limited review by the Tribunal, the respondent recalls. It maintains that the performance feedback to the appellant gave her multiple opportunities to modify her conduct.

30. The respondent denies that it breached the appellant's right to defence, and rejects the argument that it was obligated to provide internal DIANA communications to a third party, i.e. the Chair of the Confederation of NATO Civilian Staff Committees. It argues that personnel whose employment has been terminated cannot be provided with continued IT access to internal DIANA systems.

31. The respondent rejects the claims in relation to sound administration, the duty to provide reasons and the duty of care. The decision to terminate a contract during the probationary period is subject to Article 6, not Article 9, of the CPR, the respondent argues. DIANA's assessment of the appellant's unfitness for the role was based on the input and experience of staff from across the organization, it notes.

32. The respondent avers that the contested decision had nothing to do with the planned CSC elections and denies that the termination was a retaliatory measure. It does not question a staff member's rights to freedom of expression, and denies that her supervisor had tried to dissuade her from continuing to participate in the efforts to establish the CSA in Halifax.

33. In its rejoinder, the respondent reiterated its earlier assertions and supplied a written statement from the appellant's former supervisor. It highlighted the supervisor's concerns with the appellant's communications style and argumentative stance, as discussed in conversations between the two.

D. Considerations and conclusions

(i) Admissibility

34. The appeal is admissible under CPR Article 62.2, which, read together with paragraph B.(g) of the Preamble to the CPR, permits former staff to submit a matter directly to the Tribunal, and CPR Article 61.1 regarding the scope of the Tribunal's review.

(ii) Merits

35. The Tribunal recalls that during the probationary period, the Organization has the opportunity to review whether the staff member has the professional qualifications and capabilities required and whether he or she is a good fit for his or her job in the Organization. Decisions concerning the confirmation of the appointment at the end of the probationary period are within the discretionary power of the Head of the Organization (see AT Judgment in Case No. 2023/1379, dated 16 July 2024, and AT Judgment in Case No. 885, dated 21 October 2013). The Tribunal can interfere with such discretion only "if the decision was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority." (Case No. 2023/1379, paragraphs 20-21). In particular, the person concerned must be given the opportunity to explain any shortcomings that could lead to the termination of the contract during or at the end of the probationary period.

36. The appellant's contract specified that the CPR applied to it, although only Article 9 of the CPR was specifically mentioned. The contract set a probationary period of six months, with either party able to terminate it by giving 30 days' notice in writing, at or before the end of that period (as permitted under Articles 6 and 10.1 (a) of the CPR). Under Article 10.5 of the CPRs, the Head of the NATO body may substitute for all or part of the contractual period of notice an allowance equal to the emoluments due. That is what it has done here for the period up to the end of April 2025.

37. While Article 9.1(i) of the CPR refers to performance review in accordance with Articles 55.1 or 55.5 of the CPR, this cross-reference is only one of the examples given for the "due and valid reasons" on which termination is to be based under Article 9.1. In particular, the system of performance management set out in Article 55.5 of the CPR and in Annex VIII.B to which it refers do not apply during the probationary period unless otherwise stated in the contract.

38. In the light of the wide discretion granted to the administration in the context of the probationary period and the factual conclusions noted above, the Tribunal concludes that

the appellant has not shown that the conclusion to terminate her contract was a clearly mistaken conclusion. The Tribunal reaches a similar determination on the claim of a manifest error of assessment, or in the alternative, a breach of the principle of proportionality. The plea to annul the termination decision on this basis is therefore rejected. Moreover, the claim that her employment should have continued until the end of the contract in December 2027 involved pure speculation that her employment would have been confirmed even if she had benefited from a full six-month probationary period or an extended period of probation.

39. However, in this matter several rules of procedure were breached by the respondent which caused harm to the appellant. The administrative body which intends to terminate the contract during or at the end of the probatory period must allow the person concerned to explain the shortcomings in his/her work before the decision is taken; this was not the case here. In a very short meeting, DIANA informed the appellant of its decision to terminate the contract with immediate effect on the day *after* the decision was taken by the HONB on 27 March 2025.

40. Furthermore, the termination was notified with immediate effect, so the appellant was forced to leave her post without delay and escorted to the exit. The explanation for this provided by the supervisor's written statement was twofold. First, it stressed concerns about the appellant's ability to train an incoming administrative assistant; this was speculation on the supervisor's part, and not evidence of behaviour that had occurred. Second, the supervisor referred to knowledge that the appellant had already booked a ticket to her home country for a holiday in April (as a probationary employee, she was not entitled to reimbursement of removal costs), and made the assumption that it would be in the appellant's interest to use this ticket as planned. Reliance on this assumption to justify an earlier termination date was not in line with principles of good administration. The respondent thus provided no specific element to justify haste, such as a legitimate suspicion of espionage, in terminating the contract with immediate effect. Thus, it is clear that the appellant was afforded no opportunity to state her views on her shortcomings or her own interests *before* the decision was taken and notified to her as well as across the organization. While this opportunity to be informed and to be able to explain may be afforded to a staff member for a short period of time (as in Case No. 2023/1379), it cannot be non-existent, as it was in this case. Therefore, a substantial rule of procedure has been breached, and the respondent has also breached its duty of care.

41. In addition, the notification of immediate termination contained only general and standardized statements as reasons, such as reference to "the feedback received" but not from whom. No formal complaint had been lodged against the appellant. In addition, the supervisor's earlier written cautioning of the appellant about her communication style had occurred in the context of establishment of the CSC, not the appellant's performance of the duties set out in her job description or performance objectives. Those objectives were first addressed only during the third month of the six-month probationary period and agreed only two weeks before the supervisor recommended early termination of the contract to HR, without notifying the appellant of this. Indeed, in the same period the supervisor told her that they were on the right track for the next six months.

42. The respondent has also not respected the appellant's right to defence in relation to specific information legitimately sought. Since she had to leave the premises immediately after the termination meeting and no longer had access to her computer

account, she later asked the Confederation, which was supporting her appeal, to obtain information required for her appeal. The respondent denied the Confederation Chair's request to obtain four specific items of information from her user account. The request stated that it was being made on behalf of the appellant, who still had a security clearance, points which could easily have been verified. While a former employee may not engage in a "fishing expedition," for purposes of an appeal, the employee is entitled to receive specific, non-restricted information relating to their employment. This refusal thus violated the appellant's right to defence.

43. The lack of opportunity for her to respond to the termination notification before it became effective and the abrupt nature of the termination also entailed a breach of the duty of care and good administration.

44. Turning to the claim of breaches of freedom of expression and of association, the Tribunal notes that these are often linked, and have individual and collective dimensions. The appellant alleges violation of her own freedom of expression through the respondent's reaction to comments she made in the group chat. These involved some criticism of the organizational aspects relevant to conducting the election, but the comments were not rude and did not involve personal attacks or bring the organization into disrepute; they fell within the boundaries of protected speech at the workplace. (See ILO Administrative Tribunal, Judgment No. 4002, *S. (No. 2) v. WIPO*, 26 June 2018, point 7 and ILO Administrative Tribunal, Judgment No. 3106, *AG v. UNIDO*, 2 July 2012.)

45. The appellant also alleges that the immediate termination of her contract was an act of retaliation for her standing for election to the vice-presidency. If proven, this would indeed have been a violation of her freedom of association, and the overlapping of the time frame for organizing the election and the notification of termination raises doubts in this regard. However, the appellant has not met the burden of proof to show that she was a victim of retaliation for exercise of freedom of association.

46. The appellant's contract specified that it was subject to the CPR. In relation to the collective dimension of freedom of association, Article 88.1 of the CPR provides: "There shall be a Staff Association for each NATO body and headquarters locality consisting of all members of the staff. Under a procedure approved by the Head of the NATO body concerned, the Association shall elect regularly a Staff Committee to serve as its executive agent." Each Staff Committee then has the right to representation on the Confederation of NATO Civilian Staff Committees (CPR, Article 88.2). Both the Confederation and the local staff committee have the same competence as set out in Article 90 of the CPR. These include "protecting the professional interests of the staff of the North Atlantic Treaty Organization" (Article 90.1(a)). In the organization's rejection of the request for information for the appeal submitted by the Confederation Chair, the General Counsel of DIANA had pointed out that "DIANA has an established CSA through which any DIANA matter may be addressed." Instructing the Confederation to channel the request for information relating to the appellant's appeal through the CSA at the agency was improper interference in the internal affairs of these bodies and thus a violation of the freedom of association (see ILO Administrative Tribunal, *S. (No. 2) v. WIPO*, *supra*).

47. Based on the findings made above in relation to procedural flaws, the Tribunal annuls the decision of 27 March 2025 to terminate the contract before the end date of the probationary period on 31 May 2025.

Material damage

48. The appellant has claimed material damage in relation to payment of the final month of her probationary period and for the loss of a serious chance to continue her career with the agency (i.e. the amount she would have earned until the end of the contract in December 2027). The Tribunal awards payment of all emoluments which the appellant would have received from 1 to 31 May 2025. The Tribunal denies payment for the loss of chance, as there was no guarantee that her probationary period would have been extended or that her contract would have been confirmed at the end of the probationary period. The appellant's request for reimbursement of costs associated with the end of her contract, including travel and removal costs upon her departure from Canada, must be offset by the amount she had received as an installation grant upon arrival. Since this amount exceeded her claims and repatriation costs are not provided for probationary employees, no further material damages are awarded to her in this respect.

Non-material damage

49. The Tribunal may award a remedy in relation to breaches by the respondent even when the decision at issue is not annulled (see for instance AT Judgment in Case No. 2024/1387, dated 22 October 2024). In this appeal, the Tribunal has found breaches of the right of defence, the duty of care and good administration, and the exercise of freedom of association, as noted above. On this basis, it awards €12,000 in non-material damage to the appellant.

E. Costs

50. In relation to costs, the Tribunal recalls that the Article 6.8.2 of Annex IX to the CPR empowers the Tribunal to order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant, "where it is admitted that there were good grounds for the appeal".

51. This judgment having concluded that there were in part good grounds for the appeal, the Tribunal therefore awards the amount of €3,000 in costs relating to the representation by counsel, plus €600 to cover the attendance of the appellant at the hearing.

F. Decision

FOR THESE REASONS

The Tribunal decides that:

- DIANA is ordered to pay the appellant the emoluments to which she would have been entitled for the period from 1 to 31 May 2025.
- DIANA is ordered to pay the appellant €12,000 in compensation for non-material damage in relation to the breaches noted in paragraph 49 of this judgment.
- Costs shall be awarded in the amount of €3,600.
- All remaining claims are dismissed.

Done in Brussels, on 20 January 2026.

(signed) Louise Otis, President
(signed) Fabien Raynaud, Judge
(signed) Anne Trebilcock, Judge

(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

27 January 2026 AT-J(2026)0003

Judgment

Case No. 2025/1409

Appellant

v.

NATO Support and Procurement Agency
Respondent

Brussels, 21 January 2026

Original: English

Keywords: probationary period.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louise Otis, President, Ms Seran Karatarı Köstü, and Mr Thomas Laker, judges, having regard to the written procedure and further to the hearing on 19 December 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter the "Tribunal") has been seized of an appeal, dated 14 June 2025 and registered on 20 June 2025 as Case No. 2025/1409, by [*name*], against the NATO Support and Procurement Agency (hereinafter the "NSPA"). The appellant requests, *inter alia*, that the decision to terminate his contract during its probationary period be annulled.

2. In its answer, dated 16 September 2025 and registered on 23 September 2025, the respondent invites the Tribunal to reject the appeal on the merits.

3. The appellant's reply, dated 22 October 2025, was registered on the same day. The respondent's rejoinder, dated 18 November 2025, was registered on 19 November 2025.

4. An oral hearing was held at NATO Headquarters on 19 December 2025. The Tribunal heard the appellant's statement and arguments and those of the representatives of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

5. The background and relevant material facts of the case may be summarized as follows.

6. On 6 December 2024, the appellant joined the NSPA as a [*position*] on an initial three-year contract, subject to a six-month probationary period.

7. In February 2025, the appellant's direct supervisor started to have concerns about the appellant's ability to perform his functions satisfactorily.

8. On 26 February 2025, the appellant asked the Chief of Division (CoD) to transfer him to a different procurement unit, alleging that his present direct supervisor was mistreating him. On 27 February 2025, the CoD met with the appellant to discuss his performance issues and the concerns he had raised. During this meeting, the appellant complained about the supervisor's behaviour towards him. He also revealed that he was keeping his previous job at the [*name*] as an "insurance policy" in case his employment with the NSPA was not confirmed.

9. On 24 March 2025, the CoD held a follow-up meeting with the appellant. In light of the request for a transfer, the CoD indicated he would consider moving the appellant to another team if he could demonstrate the necessary skills to perform the functions of a [*position*]. In this regard, the CoD asked whether the appellant would

be willing to demonstrate during the meeting his competency in Microsoft Excel and in SAP (the NSPA's procurement and general management software). This request was prompted by concerns raised by the appellant's supervisor about his abilities to use those tools.

10. The appellant agreed to complete a series of practical exercises using Excel, but as he ultimately failed to perform most of the exercises, the SAP test was not taken. Based on the appellant's performance, the CoD informed the appellant that a transfer to a different team would not be in the NSPA's best interests. During the same conversation, the appellant was informed that his contract would likely not be confirmed.

11. On 9 April 2025, the appellant filed a formal report of alleged inappropriate behaviour against his supervisor and against the CoD, accusing them of creating a hostile work environment. In particular, the appellant alleged that his supervisor had made harsh remarks that had made him uncomfortable and called his abilities into question. In his view, this had created an environment where he was afraid to ask questions. The appellant also noted that the supervisor had complained that his work lacked accuracy and that the CoD’s request to undergo a Microsoft Excel test had been inappropriate.

12. On 21 May 2025, the NSPA General Manager informed the appellant in writing that his appointment would not be confirmed. This is the contested decision. The decision was based on the appellant's unsatisfactory performance and resistance to receive constructive feedback and to improve. The decision also highlighted shortcomings related to teamwork and a pattern of uncooperative behaviour. The appellant's supervisor had recommended termination due to these performance shortcomings. Accordingly, the General Manager terminated the appellant's contract, effective immediately. The appellant was paid an allowance in lieu of notice equivalent to the salary and benefits he would have received during his notice period.

13. On 23 May 2025, the appellant requested an administrative review and argued that his performance had not been adequately assessed.

14. Without waiting for a decision on his request for administrative review, on 14 June 2025, the appellant lodged an appeal against the General Manager's decision dated 21 May 2025.

15. In a letter dated 19 June 2025, the General Manager rejected the appellant's request for administrative review, upholding the decision to terminate his contract. In the same letter, the General Manager informed the appellant that the NSPA Office of Investigations had examined his 9 April report of alleged inappropriate behaviour and determined that the allegations were *prima facie* unsubstantiated. The appellant has not challenged the determination by the Office of Investigations.

C. Summary of parties' contentions, legal arguments and relief sought

(i) The appellant's major contentions

16. Firstly, the appellant complains that at no point during his probation was he assigned performance objectives under the Career Navigator system, a formal mechanism by which expectations are set, monitored and assessed. This denied him the opportunity to understand expectations, receive feedback and demonstrate improvement.

17. Secondly, the appellant alleges that he was never offered structured guidance or training. He received no indication of performance concerns, nor any documented warning or opportunity to respond to criticism.

18. Thirdly, according to the appellant, the NSPA neglected its duty of care. He was exposed to a hostile and isolating work environment by his supervisor, and no measures of improvement were taken by the CoD, even though the appellant had requested a transfer.

19. Further, the appellant claims that the evaluation procedure was improper. He considers the Excel test of 24 March 2025 to have been not only humiliating but also procedurally unjustified.

20. Finally, the appellant believes that his termination was not based on objective or documented performance issues, but rather a retaliatory measure following his complaint against his supervisor. In his view, the allegations in the termination letter are vague, lack supporting evidence, and directly contradict the absence of any prior feedback or performance record. He finds also significant that the Excel test, which became a *de facto* assessment tool, was introduced only after his complaint.

21. The appellant requests, *inter alia,* that the Tribunal find that the termination of his contract was unlawful, and award compensation equivalent to the full remaining value of his three-year contract from 23 June 2025 to 5 December 2027.

(ii) The respondent's major contentions

22. The respondent points out that the appellant's core job duties themselves constituted his performance objectives, and his post description outlined the core competencies needed. Notably, under the "General Qualifications" section of his post description, the appellant was required to carry out procurement-related tasks and demonstrate the "ability to work with minimum supervision and under tight timelines" as well as "sound digital literacy with experience in using office automation systems and software applications (e.g. Microsoft Office Suite, including Word, Excel, PowerPoint)". The decision not to confirm the appellant's contract was based on his failure to meet those fundamental requirements in practice. Therefore, the absence of formally documented objectives or mid-term evaluations did not affect the legitimacy of the decision; additional or more specific written objectives would not

have altered the outcome, given the appellant's clear performance deficiencies in core areas.

23. According to the respondent, the appellant was well aware of his performance deficiencies and had been warned about the need for improvement on multiple occasions during his short tenure. As early as 21 February 2025, his supervisor explicitly told him that his performance was unsatisfactory and that substantial improvement was needed. Moreover, the appellant received specific feedback on his mistakes throughout the probationary period. There is email correspondence demonstrating that the appellant's errors were pointed out to him and that he was given guidance on how to improve. In addition, the meetings with the CoD on 27 February and 24 March 2025 put the appellant on notice of performance issues.

24. In the respondent's view, sufficient steps to consider the appellant's interests and well-being were taken, consistent with its duty of care. When the appellant raised allegations of mistreatment by his supervisor, the CoD promptly met with the appellant the day after receiving the transfer request to talk with him. The NSPA's Office of Investigations formally reviewed the appellant's report of inappropriate behaviour. The process was handled in accordance with the NSPA Code of Conduct and investigative procedures and resulted in a determination that the alleged conduct by the supervisor and the CoD did not constitute misconduct.

25. Finally, in the respondent's view, the appellant has not provided any evidence to substantiate his claim of retaliation, such as emails, statements, or timelines that would suggest that his complaint, rather than his performance, was the true reason for termination. By the time the complaint was filed, the appellant's supervisors had already identified significant problems with his skills and work output.

26. The respondent requests that the Tribunal reject the appellant's claims on the merits.

D. Considerations and conclusions

(i) Admissibility

27. Pursuant to Article 1.4 of Annex IX to the Civilian Personnel Regulations (CPR), a party may lodge an appeal directly with the Tribunal where the contested issue is the result of a decision taken directly by the Head of a NATO body. This is the case here, as the General Manager who signed the contested decision is the Head of the NSPA.

28. Furthermore, the appeal was filed within the 60-day timeframe established in Article 6.3.1 of Annex IX to the CPR between notification of the contested decision (21 May 2025) and submission of the appeal (14 June 2025).

29. Therefore, the appeal is admissible, although the appeal was lodged before the appellant had received an answer to his request for administrative review.

(ii) Merits

30. At the outset, the Tribunal reiterates and confirms its established case law regarding the scope of judicial review of contract termination at the end of a probationary period, pursuant to which:

> The probationary period allows the Organization to decide whether the staff member indeed has the professional qualifications and capabilities, but also whether the person fits in his or her job in the Organization. Therefore, decisions concerning appointments, and *a fortiori* decisions concerning the confirmation of the appointment at the end of the probationary period, are within the discretionary power of the Head of the Organization […]. [D]ecisions in the exercise of the discretionary powers are subject to only limited review by the Tribunal. The Tribunal can only interfere if the decision was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority. (Case No. 2023/1379, Judgment of 16 July 2024, paragraphs 20 and 21)

31. Article 6.4 (b) of the CPR allows for the termination of a contract at “or before” the end of the probationary period. In terminating the contract, Article 10.5 of the CPR was applied, permitting the substitution of the notice period with an amount of money equivalent to the salary and other emoluments the appellant would have received had he worked through the 30-day notice period. Therefore, the respondent complied with all formal requirements.

32. The Tribunal is aware of the fact that the respondent did not apply its own Operating Instruction on NSPA Induction Procedure (OI 4400-21), applicable as from 1 April 2021. The respondent acknowledges that formal performance objectives had never been set for the appellant in the HR system during his appointment.

33. However, concerning the appellant’s assertions pointing to the absence of performance reports, evaluations etc. prior to the contested decision, it is important to note that the Tribunal and its predecessor have consistently held that a decision to terminate a contract during the probationary period can be taken at any time and does not have to be preceded by the performance review discussed in Article 55 of the CPR. The Administration must, however, respect the rights of defence. This consists in enabling the staff member to familiarize himself/herself with his/her personal file and present his/her arguments, and can take place in a relatively short timeframe (see AT judgment in Case No. 2023/1379).

34. In the present case, notwithstanding the manner in which they were expressed, the appellant was duly informed of his shortcomings during meetings, afforded the opportunity to express his views and demonstrate his capabilities and was aware of the deficiencies identified. The appellant himself concedes that on 24 March 2024: "... [*name*] proceeded to give me an Excel test on the spot and had me do some exercises within Excel. Although I knew some of the functions, many I did not and failed the test. After the test he concluded that I was not familiar at all with Excel. He said there are some things that are recoverable and some things that cannot be recovered from. My excel skills were not adequate and this is not what we do here at NSPA...".

35. In addition, documents in the file indicate that the appellant was given sufficiently clear instructions about his official obligations. For example, as early as 7 January 2025, he was advised by an email of his supervisor to "familiarize [himself] with simple SAP tasks such as RFQs and or call-off or standalone Pos". One day later, the appellant was asked to focus on "the Bidding Instructions and the Draft Contract Terms and Conditions". Later on, by email of 7 February 2025, the appellant was given a "few actions and priorities for [him] to focus on", including to "publish FBO". In this respect, on the same day, one of the appellant's colleagues sent an email to him, reading: "If you need, I can help you with the publication of the FBO."

36. Further, the email exchange between the appellant and his supervisor, as documented in the file, demonstrates that the appellant had difficulties fulfilling his tasks on various occasions. Moreover, on 27 February 2025, following a dispute with a colleague about a specific task, the appellant – in his words during the oral hearing – "stormed out of the office" very upset, which his supervisor considered to be "unfortunate and unacceptable".

37. It follows from the above that the appellant apparently did not meet the Organization's expectations regarding both his professional expertise and his behaviour. It also follows that the appellant was offered some support. Therefore, in the circumstances of this specific case, the Tribunal finds that the decision to terminate the appellant's probationary period did not exceed the Administration's discretion, although the NSPA did not apply properly its own induction rules.

38. Regarding the Operating Instruction on NSPA Induction Procedure, the NSPA is reminded of each international organization's duty to adhere to its own internal rules. The respondent is expected to implement such self-imposed procedures for the exercise of discretion.

39. Finally, the Tribunal emphasizes that there is insufficient evidence of retaliation.

E. Costs

40. Article 6.8.2 of Annex IX to the CPR provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

40. The appeal having been dismissed, no reimbursement of costs is ordered.

F. Decision

FOR THESE REASONS

The Tribunal decides that:

- The appeal is rejected in its entirety.

Done in Brussels, on 21 January 2026.

(signed) Louise Otis, President
(signed) Seran Karatarı Köstü, Judge
(signed) Thomas Laker, Judge

(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

29 January 2026 AT-J(2026)0004

Judgment

Case No. 2025/1410

Appellant

v.

Collaboration Support Office of the NATO Science and Technology Organization
Respondent

Brussels, 21 January 2026

Original: French

Keywords: harassment; written complaint process; appealable decision; duty of care.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louise Otis, President, Ms Anne Trebilcock and Mr Fabien Raynaud, judges, having regard to the written procedure and further to the hearing on 17 December 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter "the Tribunal") has been seized of an appeal by [*name*] (hereinafter "the appellant") against the Collaboration Support Office (hereinafter "the CSO") of the NATO Science and Technology Organization dated 16 June 2025. The appeal was registered on 20 June 2025.

2. The respondent's answer, dated 12 September 2025, was registered on 23 September 2025. The appellant's reply, dated 19 October 2025, was registered on 21 October 2025. The respondent's rejoinder, dated 20 November 2025, was registered on 28 November 2025.

3. In his appeal, the appellant mainly challenges three protocols issued following meetings held by the CSO Director. He also contests the way in which what he considers to be harassment and discrimination by the CSO Deputy Director was handled.

4. The Tribunal held the hearing on 17 December 2025 at NATO Headquarters. It heard the appellant's statements, and arguments by the appellant's representative and the CSO's representative, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

5. The appellant, [*nationality*], is [*position*] within the CSO. A former [*position*], he joined the CSO in November 2021.

6. [*name*], a [*nationality*] [*position*], is Deputy Director (DDIR) of the CSO and the appellant's line manager. The relationship between the appellant and his line manager deteriorated as a result of a private, family-related dispute that occurred in 2023-2024.

7. As two respected members of the CSO's senior management, the appellant and [*name*] are very familiar with the internal rules.

8. On 29 August 2024, the two men had a tense exchange following a work meeting. The appellant complains that what he considered to be "violent and threatening" words were used. That same day, he sent the CSO Director (JS) an email recounting the incident in which he noted that he "[did] not want to make a big case out of it" and left it up to the Director to take "any possible follow-up action".

9. On 30 August 2024, the Director suggested holding a round table/mediation between the two parties. In his reply, the appellant said that he was “perfectly fine with that approach”.

10. A first meeting was held on 6 September 2024, in the presence of the Director. A document entitled “Settlement between [*names*]” was signed by the appellant and the Deputy Director. This document formalizes an agreement whereby the two parties settle their conflict and undertake to work together in compliance with the NATO Code of Conduct. It is accompanied by a letter of apology from [*name*].

11. On 19 November 2024, the Director held a second meeting. This meeting concerned the communication difficulties between the two parties and a dispute that had arisen during an internal recruitment process. The report was read and approved by both parties. Among other things, the report provides for weekly meetings in the presence of a note-taker in order to improve communication.

12. On 20 February 2025, a third meeting took place with the same participants. The report states “[that] both written and verbal communication have improved and that their professional relationship has stabilized”. It notes that the report has been read and approved by both parties.

13. On 24 April 2025, the Director held a fourth meeting, which concerned certain difficulties encountered during a recruitment process and the working relationship between the appellant and the Deputy Director. The summary notes in particular that “[a] professional working relationship has been re-established” between the two parties and that it was not considered necessary to continue with the weekly meetings. The two parties agreed to continue to work together “to the best of the CSO, in accordance with the NATO Code of Conduct, and respecting the chain of command”.

14. On 25 April 2025, the report of this meeting was sent to the appellant and the Deputy Director for their review. On that same day, the appellant replied: “This is fine for me.” He signed the document on 28 April 2025, adding “I acknowledge receipt of the minutes but do not entirely share the conclusions” but did not give details of the points he disagreed with.

15. The CSO states that a final informal meeting between the Director, the Deputy Director and the appellant was held on 15 May 2025. According to the CSO, the appellant confirmed during this meeting that he was satisfied that the working relationship had been re-established. The case file does not include a report for this meeting.

16. However, the appellant claims that his health deteriorated and attributes this to the working environment and the way the CSO handled the situation. A medical certificate dated 14 June 2025 states that he is suffering from work-related burnout and that this has had a significant impact on his professional activities.

17. On 16 June 2025, the appellant submitted an appeal to the Tribunal.

C. Parties' principal contentions, legal arguments and relief sought

18. The parties' contentions and arguments are summarized and discussed below, as part of the analysis of each of the appellant's grounds.

D. Considerations and conclusions

(i) Preliminary remarks

19. The case before the Tribunal concerns, on the one hand, the legal characterization of the three documents drawn up following the meetings of 6 September 2024, 19 November 2024 and 24 April 2025, and, on the other hand, the appellant's criticism of the way in which the CSO handled a situation that, in his opinion, constitutes psychological harassment and discrimination on the part of the Deputy Director. The appellant asks the Tribunal to order the CSO Director "to comply with the provisions of the CPR and NATO rules on managing harassment".

20. The Tribunal recalls that, in accordance with Articles 2.1 and 6 of Annex IX to the NATO Civilian Personnel Regulations (hereinafter "the CPR"), its competence is limited to oversight of the legality of administrative decisions affecting staff members' conditions of work or of service, and to granting any remedies linked to these decisions. As the Tribunal already highlighted in its judgment in Case No. 2022/1346, "it has limited jurisdiction", and under Article 6.2.3 of Annex IX to the CPR it "shall not have any powers beyond those conferred under this Annex." This provision must be read jointly with Article 61.1 of the CPR which, as the Tribunal reiterated in its judgment in Case No. 2024/1382, provides that staff members may only initiate the litigation procedure if they consider "that a decision affecting their conditions of work or of service does not comply with the terms and conditions of their employment, including their contracts".

21. The NATO Policy on the Prevention, Management and Combating of Harassment, Bullying and Discrimination in the Workplace (ON(2020)0057) identifies two ways of raising concerns about behaviour that could constitute harassment or create a hostile working environment: firstly, through non-contentious channels and secondly, through a written complaint process. The written complaint process provides for the opening of an official inquiry, where appropriate, conducted by an internal or external inquiry officer, and the adoption of disciplinary measures that may result in an administrative decision, which is appealable before the Tribunal.

22. The case file shows that the appellant did not submit a written complaint within the meaning of the NATO harassment policy. The email of 29 August 2024, in which he recounts the incident that occurred with the Deputy Director, was not presented as an official complaint. Consequently, it does not satisfy the requirements of Annex 1 of the NATO harassment policy.

23. This means that the only acts that can be reviewed by the Tribunal are the three documents dated 6 September 2024, 19 November 2024 and 24 April 2025. Therefore, the Tribunal must first determine if these documents constitute "decisions" within the meaning of the CPR and if the appeal is admissible. Second, it must rule, within the limits of its competence, on the allegations of harassment and breach of the duty of care.

(ii) On the admissibility of the appeal and the concept of a "decision"

24. The appellant contends that the documents of 6 September 2024, 19 November 2024 and 24 April 2025 – which he refers to as "protocols" – constitute appealable decisions. He considers that these documents set out obligations for his professional relationship with the Deputy Director, reflect the Director's decision to use internal mediation rather than initiate an official harassment procedure, and had consequences for the working environment and his health.

25. As regards time limits, the appellant considers that the last document, dated 24 April 2025, includes the previously agreed measures and therefore the countdown on the 60-day time limit provided for in Article 6.3.2 of Annex IX to the CPR only started after notification of that document. For this reason, he considers his appeal to be admissible *ratione temporis* in relation to the three documents.

26. The respondent, however, maintains that the documents at issue do not constitute decisions within the meaning of the CPR. In its opinion, they constitute an amicable agreement between two members of staff (6 September 2024), a post-meeting note (19 November 2024) and a summary of a follow-up meeting (24 April 2025). It considers that the documents are the result of a process of amicable settlement and are descriptive and consensual in nature, since they do not include any unilateral measures imposed on the appellant and are not final in nature.

27. The respondent adds that, in any case, the appeal is time-barred insofar as the documents of 6 September 2024 and 19 November 2024 are concerned since it was submitted on 16 June 2025, i.e. after more than 60 days, in contravention of the requirements of Article 6.3.2 of Annex IX to the CPR.

28. Under Article 61.1 of the CPR and Article 6.2.1 of Annex IX to the CPR, the Tribunal is competent to rule on any individual dispute brought by a staff member concerning the legality of a decision taken by a Head of a NATO body affecting their conditions of work or of service. The Tribunal recalled in its judgment in Case No. 2014/903 that "the only measures which can be the subject of an appeal are those which have binding legal effects impacting on the appellant's interests by changing his or her legal situation in a significant way."

29. Concerning the document of 6 September 2024, the case file shows that this is an agreement signed by the appellant and the Deputy Director. The text sets out their mutual commitment to achieving a peaceful working relationship and structuring

communication between the two parties. This agreement is formulated not as a decision by the Director but as the result of mediation.

30. Concerning the document of 19 November 2024, the Tribunal notes that this is a post-meeting note describing how that day's follow-up session went. This document was sent to both participants for their approval. It mentions that their working relationship had improved and that weekly meetings would make it possible to continue the dialogue. There is no mention of a unilateral measure being imposed by the CSO Director nor of a change in the appellant's legal situation.

31. Concerning the document of 24 April 2025, this is in essence a summary of the final follow-up meeting. This summary was sent to the appellant to review, who replied on the same day, saying "This is fine for me." The appellant signed the summary on 28 April 2025, adding "I acknowledge receipt of the minutes but do not entirely share the conclusions". The appellant did not give details of his reservations. The Tribunal highlights that this document marks the end of the regular meetings and is limited to recording the situation at the end of the mediation process. It makes no provision for any disciplinary measures or any change in the appellant's duties.

32. The Tribunal takes note of the appellant's statement that these texts "institutionalize" the harassment he claims to have suffered. However, his view of the situation is not sufficient to transform documents that record the terms of an amicable settlement accepted by both parties into binding decisions.

33. In conclusion, the three documents of 6 September 2024, 19 November 2024 and 24 April 2025 do not constitute decisions within the meaning of Article 61.1 of the CPR and Article 6.2.1 of Annex IX to the CPR. For this reason, the appeal must be declared inadmissible *ratione materiae*.

34. In the alternative, even if the documents of 6 September and 19 November 2024 did constitute decisions, the fact is that the appeal of them was lodged after the 60-day time limit provided for in Article 6.3.2 of Annex IX to the CPR. As the Tribunal established in its judgment in Case No. 2022/1341, "[i]t is well settled that time limits have to be respected and that non-respect of time limits, including during the pre-litigation phase, entails inadmissibility of an appeal". Nor can the appellant use the document of 24 April 2025 to indirectly challenge the documents of 6 September and 19 November 2024, since the purpose of the documents is not the same.

35. Therefore, the appeal would be, in any case, inadmissible *ratione temporis* as far as the documents of 6 September 2024 and 19 November 2024 are concerned. The appeal was only submitted within the time limit for the document of 24 April 2025 but, as established above, that document does not constitute a decision.

36. Lastly, ordering the CSO Director "to comply with the provisions of the CPR and NATO rules on managing harassment", as requested by the appellant, would equate to issuing a mandatory injunction. The Tribunal recalls that in accordance with Article 6.2.3

of Annex IX to the CPR, it has no powers beyond those conferred under that text. In its judgment in Case No. 2022/1339, the Tribunal recalled that staff members "cannot challenge general rules or decisions but only implementing decisions directly and adversely affecting them". The general declaratory judgment sought by the appellant does not fall within the Tribunal's competence.

37. It follows from all of the foregoing that the appeal must be dismissed as inadmissible. The considerations below are only intended to give a comprehensive answer to the parties' grievances. They do not affect the ruling of inadmissibility.

(iii) On the allegations of harassment and breach of the duty of care

38. The appellant states that the cumulative effect of the Deputy Director's actions and behaviour over time constitutes psychological harassment and discrimination. He maintains that the disputed "protocols" and meetings had the effect of "institutionalizing" this situation by putting in place specific procedures aimed solely at him. He criticizes the CSO Director for not launching an official inquiry procedure or calling in an external mediator or independent expert.

39. The respondent disputes the appellant's characterization and adds that it was not able to investigate all the relevant information. It underscores that the appellant failed to submit a written complaint in accordance with the NATO harassment policy, so there was no inquiry or official decision on whether or not harassment or discrimination occurred. The respondent insists on the need to protect procedural safeguards, in particular the right to be heard and to give one's version of events.

40. The Tribunal recalls that the NATO harassment policy provides for the possibility of an amicable settlement and, if this fails, a written complaint process. It is only at the end of the written complaint process, which provides safeguards for the person claiming harassment as well as for the person accused of harassment, that administrative decisions can be taken, which the Tribunal can then review.

41. In the present case, the Tribunal notes that after receiving the email of 29 August 2024, the CSO Director proposed an internal amicable settlement, which the appellant accepted without requesting the intervention of an external mediator or the initiation of a written complaint procedure for harassment. The NATO harassment policy provides for the possibility of an amicable settlement between staff members and specifies that, if this solution fails, it "does not preclude [the harassment] from being considered under the written complaints procedure". In the present case, follow-up meetings were held on 6 September and 19 November 2024, and then on 20 February and 24 April 2025. The reports from these meetings show that the parties acknowledged on several occasions that their communication had improved and that their working relationship had stabilized, and even been re-established. The appellant did not submit a written complaint under the NATO harassment policy either before or after these meetings.

42. The appellant states that despite the consensual wording used in the “protocols” the Deputy Director continued to be hostile, and that the meetings did not address the causes of the conflict. He criticizes the CSO Director for not realizing the gravity of the situation and consequently not appointing an external investigator as per the NATO harassment policy.

43. The Tribunal therefore limits its review to whether, given what the appellant had reported, the CSO had manifestly breached its obligations, and in particular its duty of care, by choosing a non-contentious internal channel to settle the matter.

44. The duty of care “reflects the balance of reciprocal rights and obligations that the CPR has created in the relationship between the administration and the staff member concerned” as recalled by the Tribunal in its judgment on Case No. 2021/1322. This duty requires the Organization, as noted in the judgment on Case No. 2021/1332, to “take into consideration all the elements to weigh in its decision, and thus take account of not only the interests of the service but also those of the staff member concerned.”

45. In the present case, the Tribunal considers that the CSO took reasonable measures to address the reported conflict. It proposed mediation, which was unconditionally accepted by the parties, held several follow-up meetings and sought to re-establish a functional working relationship. This approach is consistent with a system that provides for mediation or investigation, as appropriate, and constitutes, as the Tribunal observed in its judgment on Joint Cases Nos. 2018/1266 and 2018/1271, “a substantial effort to address appellant’s concerns.”

46. It goes without saying that if harassment and/or discrimination should occur in the future, the appellant could make an official complaint in accordance with the procedures provided by the NATO harassment policy, Article 61 of the CPR, and Articles 2.1 and 6.2 of Annex IX to the CPR.

47. In conclusion, in the absence of a decision made in the framework of a written complaint procedure, the Tribunal is not in a position to examine the accusations of harassment or to rule on the Deputy Director’s behaviour. This conclusion does not minimize the gravity of the allegations. It simply follows on from the division of competencies between the internal investigative bodies and the Tribunal, which can only review the legality of administrative decisions.

(iv) On the claim of damage

48. The appellant states that he has suffered considerable non-material and physical damage, characterized in particular by burnout and disturbed sleep. He produces several medical certificates, including one dated 14 June 2025, which report “work-related burnout”. He considers this damage to be a direct result of the way in which the CSO handled the situation, in his view by refusing to initiate an official harassment procedure and withdraw the contested documents.

49. The respondent contests the existence of a direct, certain causal link between the appellant's health and the CSO's behaviour. It maintains that the difficulties encountered mainly stem from a private dispute that occurred prior to any action on the Organization's part. The CSO took reasonable measures to manage the situation in the workplace.

50. The Tribunal having concluded, on the one hand, that there is no appealable decision and, on the other hand, that there is no serious violation by the CSO of the applicable rules or the duty of care, the conditions for finding the Organization liable are not met. In the absence of a fault for which the Organization bears responsibility and a causal link between an established fault and the damage, the appellant's claims for compensation must be rejected.

E. Costs

51. Article 6.8.2 of Annex IX to the CPR stipulates:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

52. The appeal being dismissed, no reimbursement of costs is due.

F. Decision

FOR THESE REASONS,

The Tribunal decides that:

- The appeal is dismissed.

Done in Brussels on 21 January 2026.

(signed) Louise Otis, President
(signed) Fabien Raynaud, Judge
(signed) Anne Trebilcock, Judge

(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

29 January 2026 AT-J(2026)0005

Judgment

Case No. 2025/1405

Appellant

v.

NATO Support and Procurement Agency
Respondent

Brussels, 21 January 2026

Original: English

Keywords:. non-renewal of contract; performance appraisal; harassment: investigation.

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This judgment is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louise Otis, President, Ms Anne Trebilcock and Mr Fabien Raynaud, judges, having regard to the written procedure and further to the hearing on 18 December 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter the "Tribunal") has been seized of an appeal, dated 24 April 2025 and registered on 6 May 2025 as Case No. 2025/1405, by [*name*] (hereinafter "the appellant"), against the NATO Support and Procurement Agency (NSPA, hereinafter "the respondent"). The appellant challenges the decision of 25 February 2025 which rejected her request to review the decision not to initiate an investigation into allegations of psychological harassment and misconduct made by her against the Chief of Staff (CoS). She also challenges the decision of 10 March 2025 regarding the non-renewal of her contract on the basis of her 2024 performance appraisal.

2. In its answer, dated 7 July 2025 and registered on 11 July 2025, the respondent invites the Tribunal to reject the appeal with respect to the decisions of 25 February 2025 and of 10 March 2025 on the merits and to find the challenge of the 2024 performance appraisal inadmissible and without merit.

3. The appellant's reply, dated 11 September 2025, was registered on 22 September 2025. The respondent's rejoinder, dated 22 October 2025, was registered on 28 October 2025.

4. An oral hearing was held on 18 December 2025. The Tribunal heard the appellant's statement and arguments by her representatives and by representatives of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

5. The background and relevant material facts of the case may be summarized as follows.

6. The appellant has been working as a [*position*] at grade A5, step 1, since 15 September 2022 when she signed a three-year definite duration contract with the NSPA. As a member of the NSPA Executive Management Board, she was the executive authority for recruitment and human resource (HR) management processes, reporting to the NSPA General Manager (GM). From 27 July 2023 onwards, the appellant's position fell under the direct supervision of the Chief of Staff (CoS), [*name*].

7. On 2 December 2023, concerns were first raised by the appellant to the GM about allegations of inappropriate behaviour by the CoS.

8. The appellant's 2023 year-end performance review with the CoS took place on 17 January 2024. Following that meeting, while some shortcomings were highlighted, the appellant's performance was rated as "Very Good".

9. The appellant describes this rating and the comments made in writing as contradicted by the CoS's more critical attitude displayed during the meeting and lists a series of interactions with the CoS that took place orally and, at times, via email. The appellant described these interactions as tainted by aggressivity and lack of respect.

10. On 30 September 2024, the appellant requested mediation with the CoS, which the latter accepted. Positive exchanges between the parties took place in this regard but the mediation process never materialized.

11. On 6 December 2024, the appellant sent a formal written report to the GM with detailed allegations about the CoS's conduct towards her, including bullying, harassment, intimidation and retaliation as well as potential abuse of authority. The report was submitted to the Office of Investigations on 15 December 2024.

12. After the appellant was made aware of allegations of misconduct against her, the CoS informed her of a change in the reporting lines of the complainants who had made those allegations while the investigation was ongoing on 13 December 2024.

13. The appellant requested on 20 December 2024 that the mediation initiative be put on hold, until the conclusion of the investigation.

14. On 8 and 9 January 2025, the appellant wrote to the GM to reiterate the importance of her previously raised concerns with respect to allegations of bullying, harassment, intimidation and retaliation by the CoS against her.

15. On 15 January 2025, the Office of Investigations determined that the allegation made by the appellant against the CoS did not meet the threshold of misconduct.

16. On 16 January 2025, the appellant received an email from CoS reminding her that a meeting would take place on 20 January 2025 to conduct her 2024 year-end performance appraisal. The appellant refused to meet the CoS, considering the ongoing allegations she had made about his inappropriate behaviour.

17. On 23 January 2025, a report was produced by the Office of Investigations following the allegations of four complainants with respect to the appellant's alleged misconduct. The report concluded that the allegations were not established and recommended that misconduct proceedings not be initiated against the appellant.

18. On 27 January 2025, the appellant was informed by the GM and the Executive Officer that an investigation would not be pursued into her allegations against the CoS. She was also informed that her request for a change in reporting line would be dismissed as it was tied to the duration of the investigation. This decision was challenged by the appellant via email on 3 February 2025 and she submitted a request for an administrative review of that decision.

19. On 14 February 2025, the appellant submitted a formal complaint regarding the decision of the Office of Investigations.

20. On 19 February 2025, the appellant submitted a formal letter to the NATO Secretary General containing allegations of fraud, corruption and compliance issues at the NSPA implicating the GM, the CoS, the Executive Officer, the Head of Legal and a Senior Employee Relations Advisor. The external investigator came to the conclusion that none of the allegations were fully substantiated.

21. On 20 February 2025, the CoS informed the appellant that her performance appraisal for the period from 1 January 2024 to 31 December 2024 had been finalized and that he had recommended to the GM that her contract be terminated in accordance with Article 9.1(i) of the NATO Civilian Personnel Regulations.

22. On 21 February 2025, the appellant reiterated her allegations in a letter circulated more broadly within the organization.

23. On 25 February 2025, the GM informed the appellant that the decision of the Office of Investigations had been confirmed and that her request for protection against retaliation had been rejected.

24. The appellant's counsel wrote to the GM on 26 February 2025 raising a series of doubts about the process which had led to the adoption of the CoS's decision as expressed in the latter's correspondence of 20 February 2025.

25. On 27 February 2025, the Head of Legal informed the appellant's legal counsel that a meeting would take place on 3 March 2025 with the GM to "ensure [the appellant] has every chance to make her views heard". The allegations and the request for a deadline extension for the appellant to make observations about the appraisal report were otherwise dismissed.

26. On the same day, the appellant's legal counsel reiterated the importance of the appellant's allegations and noted that the appellant would not attend the meeting given that she was not authorized to be accompanied by her legal counsel.

27. On the same day, the appellant was informed by the Executive Officer that an investigation had been opened against her regarding an allegation that she had "intentionally prepared and disseminated to external parties (…) allegations against NSPA staff members which you knew or should have known were false or defamatory in nature".

28. Still on the same day, the GM decided to suspend the appellant pursuant to Article 60.2 of the CPR.

29. On 3 March 2025, the appellant's legal counsel responded to the suspension decision of 27 February 2025, reiterating the concerns previously expressed and asking for the opportunity for the appellant to be heard, accompanied by her legal counsel.

30. The respondent replied on 6 March 2025 by rejecting the request of the appellant's legal counsel.

31. On 7 March 2025, the Agency Supervisory Board (ASB) decided to launch an external, independent investigation into allegations of misconduct on the part of senior managers within the NSPA. The appellant was informed of the decision on 11 March 2025.

32. On 10 March 2025, the GM informed the appellant of the decision not to renew her contract.

33. On the same day, the appellant's legal counsel requested the suspension of the investigation opened against the appellant until the conclusion of the investigation requested by the ASB. The request was rejected on 14 March 2025.

34. On 25 March 2025, the appellant's legal counsel sent an email to the GM requesting full access to facilities, systems, equipment and documents to allow the appellant to fully participate in the investigation initiated by the ASB. The request was rejected on 28 March 2025.

35. On 28 March 2025, the appellant submitted her observations on her 2024 performance appraisal.

36. On 31 March 2025, the appellant's legal counsel wrote to the Chairperson of the ASB, requesting protective measures to ensure the integrity of the independent administrative process and to grant the appellant access to facilities, systems, equipment and documents in accordance with the ASB decision. The Chairperson replied on 2 April 2025 explaining that said access would be granted once the investigation had been formally launched.

37. On 24 April 2025, the appellant filed the present appeal.

38. Following the filing of this appeal, the ASB decided to initiate an investigation into the NSPA senior management concerning allegations raised in staff complaints.

39. On 14 May 2025, the appellant received notice that her suspension was being extended until the end of her contract.

C. Summary of parties' contentions, legal arguments and relief sought

(i) The appellant's major contentions

40. On the admissibility of the appeal, the appellant explains that the disputed decisions adversely affect her situation and that they are admissible *ratione temporis*.

41. On the merits, the appellant first explains that the decision of 25 February 2025 not to review the decision not to initiate an investigation into allegations of psychological harassment and misconduct made by the latter against the Chief of Staff (CoS) must be annulled.

42. The appellant states that she faced retaliation through her appraisal process and, ultimately, through the non-renewal of her contract.

43. In addition, the appellant explains that the CoS engaged in “repeated and deliberate abuse of power”. In particular, the CoS consistently circumvented proper governance, compliance protocols and coordination processes by, for example, pressuring the appellant to adopt positions without following the appropriate mechanisms. He also disregarded internal rules regarding transparency and traceability and tried to influence the content of a selection report in the context of a recruitment process.

44. Similarly to the other instances of misconduct mentioned above, the appellant states that such behaviour should have warranted the opening of an investigation into the allegations of psychological harassment made against the CoS.

45. In this regard, the appellant emphasises that the investigators, in order to reach the decision not to open an investigation into the CoS’s behaviour, conducted a preliminary assessment by evaluating each allegation in isolation. Instead, the investigation should have assessed them as a whole, even though the appellant highlights that even taken independently, the allegations “undoubtedly amount to prima facie evidence of psychological harassment”.

46. Secondly, the appellant requests the annulment of the decision of 10 March 2025 regarding the non-renewal of her contract because this decision is vitiated by manifest errors of assessment which, in turn, affect the legality of the decision.

47. In light of the foregoing, the appellant explains that the decision not to renew her contract could not have been validly taken on the basis of the appraisal report.

48. The appellant further supports her position by explaining that testimonies were gathered from subordinates and liaison officers highlighting her performance, professionalism and cooperation with colleagues, and generally expressing their full support for the appellant.

49. Finally, the appellant alleges a violation of her right to be heard prior to the decision not to renew her contract.

50. In addition to the annulment of the decisions mentioned above, the appellant requests immediate extension of her contract and compensation for material damage corresponding to a loss of remuneration of up to €385,435.80 (the difference in remuneration expected to be received by the appellant during the renewed contract period from 15 September 2025 to 14 September 2028). The appellant also asks for compensation for non-material damage assessed *ex aequo et bono* and on a provisional basis at €30,000.

(ii) The respondent's major contentions

51. On the admissibility of the appeal, the respondent explains that although the appellant is entitled to contest the decisions of 25 February 2025 and 10 March 2025,

she is not entitled to do so with respect to her 2024 performance appraisal pursuant to Article 55.4 of the CPR. This aspect of the appeal is thus inadmissible.

52. In addition, the appellant has failed to make use of the available channels for challenging her 2024 performance appraisal.

53. On the merits, the decision not to initiate an investigation against the CoS on the basis of the appellant's allegations was taken pursuant to the preliminary review under the NSPA Code of Conduct. More precisely, it was adopted after that preliminary assessment did not reveal any of the instances warranting the opening of the investigation provided in Articles 7.3.3.1. to 7.3.3.3. of the NSPA Code of Conduct.

54. In this regard, the respondent emphasises that the assessment was undertaken by an investigator with specific expertise and that the appreciation made by the latter is free from manifest errors of assessment as regards the allegations made by the appellant and from abuse of authority.

55. According to the respondent, most of the incidents reported by the appellant are in fact instances of the normal exercise of managerial authority by the CoS. The respondent further emphasises that, consistently with the NSPA Code of Conduct, disagreements are not normally considered inappropriate behaviour.

56. As to the respondent's decision not to grant the appellant protection from retaliation as regards her 2024 performance appraisal, the respondent explains that no manifest error of assessment was made in this regard. The decision was taken based on documentary evidence demonstrating that the CoS's 2024 appraisal of the appellant's performance would have been negative even if she had not reported the CoS's misconduct.

57. Regarding the decision of 10 March 2025 not to renew the appellant's contract, the respondent first insists on its broad discretion to make such a decision and the fact that it was adopted by the competent authority and that the appellant does not allege abuse of authority in this respect.

58. With respect to the alleged manifest errors of assessment vitiating the decision, the respondent first explains that considering Article 5.2.3. of the CPR offering a renewal of the appellant's contract was not an option in the light of the latter's performance rated as "Unsatisfactory" in her 2024 performance appraisal. The respondent further provides several explanations and examples justifying the said rating.

59. In addition, the respondent explains that in exercising its discretionary authority, it determined that it was not in the interests of the service to renew the appellant's contract. The respondent refers in this regard, *inter alia*, to critical feedback from staff members with respect to the appellant's leadership, management and communication styles.

60. Lastly, with respect to the decision not to renew the appellant's contract, the respondent explains that it was under no obligation to offer the appellant an opportunity to provide comments about the non-renewal of her contract. The respondent further observes that it did in fact offer the possibility to the appellant to be heard after she was

informed of the GM's intention to terminate her contract for unsatisfactory performance, but she refused to do so.

61. Considering the lawfulness of the contested decisions, the respondent states that the appellant may not claim compensation and that, in any case, the latter fails to establish any damage, whether material or non-material.

D. Considerations and conclusions

(i) Admissibility

62. Regarding admissibility, the Tribunal first finds that the contested measures consist of the decisions of 25 February 2025 and of 10 March 2025. Accordingly, the appellant does not directly seek to contest her 2024 performance appraisal, nor does she ask for its annulment.

63. It is accepted by the parties that the content of the appraisal report – with respect to which specific channels exist to file a challenge – cannot, in itself, be the subject of an appeal on the basis of Article 55.4 of the CPR.

64. This recognized principle does not, however, prohibit this Tribunal from addressing the 2024 performance appraisal in its analysis of the request to annul the decision of 10 March 2025 and, in particular, of whether that decision was founded on some irregularity that may justify its annulment. In this regard, this Tribunal's case law has affirmed that although it has a limited review authority in cases involving performance assessment of staff members, it can intervene to verify the absence of any manifest error of judgment or misuse of power (see AT Judgment in Joined Cases Nos. 2023/1380 and 2024/1389, paragraph 27).

65. The Tribunal also notes that no objection has been raised by the respondent with respect to the exhaustion of internal remedies by the appellant before lodging the present appeal with respect to the decisions of 25 February 2025 and 10 March 2025, and that the 60-day deadline imposed by Article 6.3.1. of Annex IX of the CPR was respected.

66. Finally, the Tribunal is of the opinion that the decisions of 25 February 2025 rejecting the appellant's request to review the decision not to initiate an investigation into allegations of psychological harassment and misconduct made by the appellant against the CoS and of 10 March 2025 regarding the non-renewal of her contract directly affected the appellant's working conditions in an adverse manner, in line with the requirements of Article 2.1. of Annex IX to the CPR.

67. The appeal is therefore admissible.

(ii) Merits

68. By way of preliminary remarks, the Tribunal recalls that Article 12.1.4 of the CPR provides that:

> Members of the staff shall treat their colleagues and others, with whom they come into contact in the course of their duties, with respect and courtesy at all times.
> (a) They shall not discriminate against them on the grounds of gender, race or ethnic origin, religion or belief, age or sexual orientation.
> (b) They shall not harass, bully or otherwise abuse another staff member.

69. NATO's policy on the "Prevention and Management of Harassment, Discrimination and Bullying in the Workplace" and NATO's policy on the "Prevention, Management and Combating of Harassment, Bullying and Discrimination in the Workplace" (ON(2013)0076 and ON(2020)0057) further define the terms harassment, intimidation and discrimination.

70. The NSPA Code of Conduct defines the term "harassment" in its Article 1.3.1.11.2 as any unwelcome conduct that might reasonably be expected to cause offence or humiliation to another person, creating an intimidating, hostile, or offensive work environment.

71. The NSPA Code of Conduct is also relevant in that it provides for the procedure to be followed when a report of misconduct is submitted, which was done by the appellant with respect to the CoS in the present case.

72. In particular, Article 7.3. of the NSPA Code of Conduct, entitled "Preliminary review of report of misconducts," provides that:

> 7.3.1 The investigative authority shall register all reports of allegations of misconduct. It shall then conduct a preliminary assessment of the report in order to determine whether the complaint has been submitted in good faith, is not frivolous, or manifestly unfounded.
> 7.3.2 The investigative authority shall initiate an investigation if the preliminary assessment reveals that:
> 7.3.2.1 The report was made in good faith;
> 7.3.2.2 The alleged conduct could constitute misconduct;
> 7.3.2.3 There is a likelihood that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case.
> 7.3.3 The investigative authority shall dismiss the complaint if the preliminary assessment reveals that:
> 7.3.3.1 The report was made in bad faith, is frivolous or vexatious;
> 7.3.3.2 The alleged conduct would not constitute misconduct even if the alleged facts were assumed to be true;
> 7.3.3.3 There is no likelihood that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case.
> 7.3.4 The investigative authority may refer the matter for disciplinary proceedings in accordance with Chapter 8 (Policy on Disciplinary Proceedings) without any investigation if:
> 7.3.4.1 The facts are established on the balance of probabilities;
> 7.3.4.2 The facts would constitute misconduct; and

> 7.3.4.3 An investigation will most likely not reveal additional facts or exonerating evidence.
> 7.3.5 Where possible, and if deemed appropriate, the investigative authority may inform the individual who submitted the report of possible misconduct of the outcome of the preliminary review.

73. Before addressing the appellant's requests to annul the decisions of 25 February 2025 and 10 March 2025, the Tribunal notes that the appellant made a series of allegations against the CoS. Those allegations, to a certain extent, are the same as those made in the context of the appellant's formal complaint of 6 December 2024.

74. The Tribunal notes that some of these allegations are based on oral exchanges or behaviour perceived and recounted by the appellant, while others are based on written documents. The Tribunal is in a better position to assess the appellant's request with respect to the second type of allegations.

75. Turning now to the appellant's first request, the Tribunal must assess whether annulment of the decision of 25 February 2025 is warranted.

76. In this regard, the Tribunal recalls its settled case law according to which:

> […] decisions taken in the exercise of such discretion are subject to only limited review by a tribunal. Tribunals only interfere if a decision was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority. It is also settled jurisprudence that tribunals will not substitute their own views for the organizations' assessments. (see AT Judgment in Case No. 2022/1336, paragraph 49).

77. Similarly to what was held in this Tribunal's previous case law (see AT Judgment in Case No. 2022/1336), the decision at stake, whereby the organization decided not to pursue an investigation, was within the discretionary power of the respondent.

78. In this regard, the Tribunal observes that the sole grounds raised by the appellant to request the annulment of said decision are alleged manifest errors of assessment and abuse of power.

79. In its assessment of this argument, the Tribunal took into account the documents submitted as evidence as well as the parties' submissions. After a careful analysis of said documents, the Tribunal cannot conclude that there were manifest errors of assessment made in the investigation report, on the basis of which the decisions of 27 January 2025 and 25 February 2025 were adopted.

80. The incidents reported by the appellant in her report as well as in her submissions undoubtedly highlight the difficult relationship between the appellant and the CoS. Things were said, written and done. The appellant provides ample examples of such instances. However, whether taken individually or together, the Tribunal is not convinced that this case warrants substituting its view to that of the respondent's decisions based on the investigator's preliminary report which concluded that the appellant's allegations would not constitute misconduct even if they happened to be true.

81. The Tribunal finds it useful to emphasize in this regard that Article 3.2.8 of the NSPA Code of Conduct specifies that "[d]isagreements on work performance or on other work-related issues is normally not considered inappropriate behaviour".

82. In making this determination, the Tribunal also took into account the fact that such disagreements can sometimes arise from individuals with different personalities or working styles collaborating in a professional – and sometimes stressful – environment. The respondent has also provided evidence, including testimonies, of issues that other staff members encountered with respect to the appellant's behaviour and management style.

83. Similarly, the Tribunal is not convinced that a manifest error of assessment was made by the respondent when the latter took the contested decision based on the preliminary investigation report which had concluded that the appellant's allegations of abuse of authority would not constitute misconduct even if they were true. Nor has the appellant demonstrated any such flaws in the decision not to afford her protection from retaliation.

84. Turning now to the second request for annulment put forward by the appellant, i.e. annulment of the decision of 10 March 2025 on the non-renewal of the appellant's contract, the Tribunal first notes that the appellant's contract explicitly provided that "it shall not give rise to any legitimate expectation of renewal". Consequently, and consistently with this Tribunal's case law, the appellant did not have a *right* to her contract:

> The Tribunal has repeatedly held that a staff member on a fixed term contract does not have a right to a further contract, and that the decision whether or not to offer one lies within the discretion of the HONB, subject only to certain conditions limiting abuses of discretion (…) (see for example AT Judgment of 4 February 2020, Case No. 2019/1284; AT Judgment of 16 June 2019, Case No. 2019/1278; AT Judgment of 6 June 2018, Case No. 2017/1125). (see AT Judgment in Case No. 2020/1305, paragraph 40)

85. Furthermore, Article 5.2.3. of the CPR provides for the possibility of renewal (through the use of the word "may") if four cumulative requirements are met: the renewal is in the interest of the Organization (1); availability of budget post (2); performance to the required standard as defined by the Head of NATO body (3); and, in the case of seconded staff, the duration of the contract does not exceed the period of secondment (4). With respect to the third condition, the NSPA Operating Instruction on Employee Performance Management provides in Article 6.4.1.1.2. that "the minimum performance standard which is required for a definite duration contract to be renewed shall be an overall rating of "Good" in the most recent performance appraisal".

86. The Tribunal also recalls its well-established case law according to which such decisions are made on a case-by-case basis, based on the assessment of the needs and interests of the Organization made by the hierarchy and that the Organization has broad discretion to decide whether to renew a definite contract or not. The Tribunal explained in its Judgment in Case No. 2019/1283 that:

> Article 5.5.3 of the CPR provides that the Head of the NATO body "may" offer the renewal of a definite contract if it is "in the interests of the service". From this it follows that the

> Organization has wide discretion to decide whether to renew it or not, and that the renewal of such a contract must be decided on a case-by-case basis, based on the assessment of the needs and interests of the Organization made by the hierarchy (see AT Judgment of 12 November 2014, Case no. 2014/1011). Consequently, the respondent's decision is within its discretionary powers, provided that decision was taken in accordance with its policies and not tainted with any abuse of authority. (see AT Judgment in Case No. 2019/1283, paragraph 48).

87. Consequently, and in line with its own case law, this Tribunal is limited in the review it can undertake of such decision, as highlighted in its case law:

> This Tribunal has consistently held that decisions concerning renewal or non renewal of contracts are within the discretionary power of the Head of the Organization. There is consensus among international administrative tribunals that a decision in the exercise of discretion is subject to only limited review by a tribunal. A tribunal would interfere with a non-extension of contract decision only if it was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority. Tribunals have also consistently held that they will not substitute their own view for the organizations' assessments in such cases (cf. Judgment in Case No. 885). (see AT Judgment in Case No. 2019/1278, paragraph 46).

88. The most recent performance appraisal of the appellant had a rating of "Unsatisfactory".

89. The crux of the question is: did this performance appraisal and the manner and circumstances in which it was prepared, and which ultimately formed the basis for the decision of 10 March 2025, display such a manifest error of assessment so as to vitiate that decision?

90. In this regard the Tribunal recalls its earlier – and well established – case law according to which it has limited review authority in cases involving performance assessments of staff members. In its judgment in Case No. 2024/1389, this Tribunal explained that:

> 26. (…) The Administrative Tribunal of the International Labour Organization (hereinafter "ILOAT") in Judgment No. 4543 stated that "assessment of an employee's merit during a specified period involves a value judgement; for this reason, the Tribunal must recognize the discretionary authority of the bodies responsible for conducting such an assessment". Similarly, in Case No. 2013/1001, this Tribunal observed that it "cannot substitute its own judgment for that of the Administration in respect of the assessment and abilities of a staff member".
>
> 27. The Tribunal can only intervene with respect to performance assessments in limited circumstances. In Case No. 2013/1001, cited recently with approval in Case No. 2023/1353, the Tribunal explained that it could intervene to verify the absence of "any manifest error of judgment or misuse of power" by the authorities, with manifest being defined as "easily visible and evident". Relatedly, in Case No. 2022/1336, the Tribunal specified that it could intervene in decisions involving the exercise of discretionary authority, such as performance assessments, only "if a decision was taken without authority, if a rule of form or procedure was breached, if it was based on a mistake of fact or law, if an essential fact was overlooked, if a clearly mistaken conclusion was drawn from the facts or if there was an abuse of authority". These principles are also reflected

> in the ILOAT's Judgment No. 4543. (NATO Administrative Tribunal, judgment in joined cases nos. 2023/1380 and 2024/1389, paras. 26 and 27)

91. Bearing this in mind, the Tribunal first observes that the critical stance adopted towards the appellant's performance in her 2024 performance appraisal was not new. It echoed comments already made in the appellant's 2024 mid-year performance appraisal as well as in her 2023 performance appraisal. The Tribunal notes in this regard that the following comments were made in the appellant's 2023 performance appraisal:

> In addition, although the trend is clearly one of slight improvement, she still has difficulty accepting that the COS would be overall responsible for HR. She also occasionally appears to take challenges to her intent or plans as a challenge of her competence in HR matters, instead of a constructive discussion on the issue at hand. As part of the same observation, I believe Gen should be more transparent when dealing with issues and be more forthcoming.
> When questioned on certain topics where improvement is needed, she diverts the conversation away from the crux of the issue.
> Finally, I believe she should also more readily accept that certain questions require non-HR advice to be solved (…).

92. Those comments are further consistent with a series of testimonies produced by the respondent which were critical of the appellant's working methods. Staff members' testimonies include the following excerpts:

> Following the arrival of the new CHRO, I tried to adapt to her managerial approach, which was not always easy to understand: micromanagement, lack of attentiveness, a multitude of simultaneous projects, and a revolutionizing approach in well-defined NATO domains. Until recently, I was able to shield my team so that it would not affect them. Indeed, the impact of this type of management was initially primarily limited to my level. However, recent events have worsened the working atmosphere for the entire team. I decided to come to you because, as a manager, I see risks of possible departures, growing demotivation, and a level of service quality that we will no longer be able to maintain [English translation from French original provided by the respondent].
>
> . . . . .
>
> All I want at this stage is to be able to continue to serve the Organization in Capellen to the best of my ability in a safe and healthy workplace (i.e. in a non-toxic environment). Nothing else. This is why I am hereby requesting to be transferred out of the HR team as soon as possible. (…) If there is something preventing my timely transfer or if my presence in my current post in HR is deemed essential by the Organization, I would be prepared to continue to serve in post [redacted] if there is an immediate change in my reporting line to ensure that I do not report any more to [*name*].
>
> . . . . .
>
> As I explained to you, I now reached a point of no return and unfortunately, I need to admit that I cannot continue to work in this toxic environment where a relationship of trust does not and will not exist anymore. I am therefore requesting , as a first priority, to move me , and preferably the entire recruitment team, temporarily under another direct line manager (I am not high maintenance and can manage my team with minimum if no supervision at all), while other options could be further considered by senior management (e.g. a CPR art. 4.1.1 or 4.1.2 transfer). Please understand that it is far from easy for me

> to write this email but unfortunately, despite all my efforts, I cannot continue to work in this way.
>
> . . . . .
>
> In my capacity as NSPA medical advisor between 3 January and 30 June 2023, I met NSPA employees in my medical office on numerous occasions. For reasons of medical confidentiality, I cannot give the names of the people who came to see me. On the other hand, I can say that I specifically met 8 people whose main complaint was psychological distress and anxiety secondary to their relationship with [Human Resources Executive], Ms. M]achin. The work environment she has created and continues to nurture is utterly toxic and unhealthy. [English translation from French original provided by the respondent].

93. In light of the above, the Tribunal concludes that the respondent acted within the confines of its discretionary power when deciding not to renew the appellant's contract on the basis of the latter's 2024 performance appraisal. The appellant has not demonstrated the existence of grounds that would justify annulling that decision.

94. Finally, the Tribunal turns to the appellant's assertion of violation of her right to be heard before the non-renewal decision was taken.

95. In this regard, the Tribunal first notes that pursuant to Article 5.5.1. of the CPR, "[t]he staff member shall be informed in writing not less than six months before the expiry of a contract whether or not it is intended to offer a further contract". This condition has been met as the decision not to renew the contract was taken on 10 March 2025, whereas the appellant's fixed-term contract was ending more than 6 months later, on 14 September 2025.

96. The applicable rules do not provide for the right of a staff member to be heard in the case of the non-renewal of a contract. This Tribunal has previously rejected a similar claim because of the lack of identification of a legal basis (see AT Judgment in Case No. 2019/1278, paragraph 51). Furthermore, the Tribunal notes the finding of the ILOAT in Judgment No. 4037 according to which

> A steady line of precedent has it that a decision not to renew a fixed-term contract must be notified to the official concerned in good time, particularly so that she or he may exercise her or his right to appeal against it (…). However, this case law does not require that the official be given an opportunity to submit comments before that decision is taken. (consideration 5)

97. The Tribunal notes that, in any case, the respondent did provide the appellant with the possibility to comment during a meeting or through written comments.

98. Considering the above, the Tribunal dismisses the appellant's claim according to which her alleged right to be heard was violated.

E. Costs

99. In relation to costs, the Tribunal recalls that the basis for an award of costs is Article 6.8.2 of Annex IX to the CPR, which empowers the Tribunal to order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant, "where it is admitted that there were good grounds for the appeal".

100. The instant judgment has concluded that this was not the case, and the appellant therefore bears the costs of retaining counsel in this appeal.

F. Decision

FOR THESE REASONS

The Tribunal decides that:

- The claims are admissible.
- The challenges directed at the decisions of 25 February 2025 and of 10 March 2025 are rejected.
- The appellant's claim according to which her right to be heard prior to the decision of 10 March 2025 not to renew her contract was violated is rejected.
- The appellant's application for compensation both in the form of material and non-material damage is rejected.
- The claim to reimburse the appellant for her legal costs is rejected.
- All other claims are dismissed.

Done in Brussels, on 21 January 2026.

(signed) Louise Otis, President
(signed) Fabien Raynaud, Judge
(signed) Anne Trebilcock, Judge

(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

29 January 2026 AT-J(2026)0006

Judgment

Case No. 2025/1404

Appellant

v.

NATO Communications and Information Agency
Respondent

Brussels, 21 January 2026

Original: English

Keywords: reorganization, downgraded post, non-material damage.

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This judgment is rendered by a Panel of the North Atlantic Treaty Organization (NATO) Administrative Tribunal, composed of Ms Louise Otis, President, Ms Seran Karataru Köstü and Mr Thomas Laker, judges, having regard to the written procedure and further to the hearing on 19 December 2025.

A. Proceedings

1. The NATO Administrative Tribunal (hereinafter "the Tribunal") has been seized of an appeal by [*name*] (hereinafter "the appellant"), against the NATO Communications and Information Agency (hereinafter "NCIA") dated 22 April 2025 and registered on 6 May 2025, seeking the annulment of the NCIA decisions whereby, following restructuring, the appellant's position was redesignated and downgraded from G22 [*post*] to G20 [*post*], and a personal grade was granted – initially for three years and subsequently amended to five years – with access to the Clearing House, as well as compensation for non-material damage and reimbursement of legal costs and counsel's fees.

2. The respondent's answer, dated 7 July 2025, was registered on 9 July 2025. The appellant's reply, dated 3 September 2025, was registered on 19 September 2025. The respondent's rejoinder, dated 16 October 2025, was registered on 23 October 2025.

3. An oral hearing was held on 19 December 2025 at NATO Headquarters. The Tribunal heard the appellant's statements and arguments by the appellant's representative and by representatives of the respondent, in the presence of Ms Laura Maglia, Registrar.

B. Factual background of the case

4. This appeal concerns a long-serving NATO staff member who joined NATO in 2002 and held an indefinite duration contract as [*position*] in NCIA's Air Missile Defence Command and Control Directorate (AMDC2) as from 2016.

5. Since 2022, NCIA has been restructuring AMDC2 through a Functional Review to make it more flexible and responsive.

6. On 26 September 2023, the Agency Supervisory Board (ASB) approved the creation of a new G22 Chief post to replace the abolished G23 Director role as AirC2's lead position. The appellant applied for this post on 30 October 2023 but was unsuccessful.

7. On 6 December 2023, the ASB endorsed the reorganization of AMDC2 into three core elements: the AirC2 Business Area, Ballistic Missile Defence (BMD), and Functional and Business element transfers. Subsequently, on 27 March 2024, it approved NCIA's final AirC2 structural plan, including a table of personnel for the new AirC2 Centre – shown to the judges of the Tribunal at the hearing solely for their information – which

reduced the number of senior posts and provided for only one G22 post, namely the Chief, within the new Business Area.

8. Given that the new AirC2 comprises only a single G22 position, and in order to realign the existing G22 establishment, the Chief of Staff/CPO formally requested on 3 June 2024 a Peacetime Establishment (PE) change to downgrade and redesignate the G22 position [*post*] as a G20 position [*post*], with the incumbent retaining a personal grade for a period of three years. This request was approved by the General Manager on 11 June 2024. On the same day, the appellant was orally informed by the AirC2 Deputy Chief of the impending downgrade.

9. On 25 June 2024, NCIA held a staff Q&A session on the Functional Review.

10. On 8 November 2024, the appellant was formally notified that, as from 1 January 2025, his post was being downgraded from G22 [*post*] to G20 [*post*], he was being granted a personal grade (G22) for three years, his grade could be revisited at the discretion of the GM on 31 December 2027, and he could participate in the NATO Clearing House.

11. On 2 December 2024, the appellant lodged a request for administrative review, seeking annulment of the 8 November 2024 decision and asking either to keep his post at G22 or, alternatively, to retain his personal grade until retirement or separation, and to remove the clause allowing the GM to revisit his grade on 31 December 2027.

12. On 1 January 2025, the appellant's new grade and conditions took effect.

13. On 13 January, the administrative review request was rejected. On 12 February, the appellant filed a complaint.

14. On 26 February, the GM, in response to the complaint, citing the appellant's long service and difficulty finding a similar-grade post, extended his personal grade from three to five years, stating that it would not be extended again.

15. On 24 March, the appellant reiterated his remaining pleas, considering them unaddressed, and on 14 April, the respondent replied, reiterating its position as previously communicated.

16. On 22 April, the appellant lodged the present appeal.

17. On 1 September, the appellant was appointed as Deputy Programme Manager (G22) at HQ Supreme Allied Commander Transformation.

C. Parties' principal contentions, legal arguments, and relief sought

(i) The appellant's main contentions

18. The appellant argues that the ASB endorsed only the general restructuring framework and did not specifically approve the downgrade of individual G22 posts. He believes the PE change request leading to the downgrade of his post was made without the ASB's approval.

19. The appellant, in his case, claims the breach of the established NCIA/NATO practice of reassigning staff to vacant posts at the same grade or, when posts are downgraded, allowing them to keep their personal grade until age 60 or retirement.

20. The appellant alleges that the contested procedure was tainted by procedural irregularities, in particular a lack of transparency, adequate reasoning, and duty of care. He submits that, despite management's public statement in June 2024 that no downgrades were envisaged, his post was downgraded. He further contends that the justification provided to him was confined to the application of the "one G22 per Business Area" rule and he did not receive an individualized assessment to substantiate the decision to limit the duration of his personal grade to five years, despite the absence of such a limitation under the CPR. He alleges unequal treatment, asserting that he was left as the only staff member subjected to downgrading, and further maintains that the respondent failed to duly take into account his interests as a staff member.

21. The appellant also argues that once eligible staff had been invited to join the Clearing House, the respondent was obliged to automatically include them in the Clearing House process. He believes that he should have benefited from that option, after having been orally informed about the downgrade of his post on 11 June 2024. He cites four positions for which he applied, alleging that the respondent failed to apply the Clearing-House procedure and treated him as an ordinary external candidate, without any priority consideration.

22. The appellant accepts the legitimacy of structural reforms and the Functional Review, but contests individual decisions, *inter alia*, the decision to downgrade his post. He requests:

- annulment of the initial decision of 8 November 2024 and the decisions rejecting his administrative review request and complaint,
- annulment of the decision of 26 February 2025 insofar as it would be considered as a "new decision",
- compensation for non-material damage evaluated at €30,000,
- reimbursement of legal costs and legal counsel's fees.

(ii) The respondent's main contentions

23. The respondent considers that the appellant's interest to pursue the proceedings is no longer present since he kept all G22 benefits and later moved to another G22 NATO post, and that this case has become moot and/or academic in nature. It also maintains that, further to the appellant's complaint, since the respondent did review the decision of 8 November 2024 and extended the duration of the appellant's personal grade from three

to five years, the appellant's claims regarding the decision of 8 November 2024 and the motivation given for the three-year personal grade must be declared as inadmissible.

24. The respondent states that the downgrade of the appellant's post was lawfully decided by the competent authority and aligned with the ASB-approved restructuring plan. Once the ASB had endorsed the overall functional review, the PE change request that downgraded the appellant's post was merely its implementation.

25. The respondent explains that both options of reassignment and granting of a personal grade are measures intended to retain the staff member within the Agency. These mechanisms are applied to avoid termination of employment contracts, and reflect the respondent's commitment to continuity and the duty of care towards its staff. As the ASB-approved Functional Review explicitly indicated that only one G22 post (Chief AirC2) would remain within AirC2, the appellant's post could no longer qualify as a G22 position. Since the respondent wished to retain the appellant, it first considered the possibility of reassignment, but no suitable G22 post was available for the appellant; it then eventually decided to redesign and downgrade the appellant's post to the G20 grade, while granting him a personal grade as a solution.

26. The respondent submits that, pursuant to Article 58.4 of the CPR and NATO-wide reorganization measures, the duration of a personal grade following a downgrade is subject to limitations and falls within the discretion of the GM. It maintains that, assessed on a case-by-case basis, the appellant was granted the maximum duration of five years and that any extension beyond that period would amount to unequal treatment.

27. The respondent states that Clearing House eligibility arises only after the granting of a personal grade and is subject to a formal request via an application form. His applications were correctly assessed under the ordinary recruitment procedure and were unsuccessful.

28. The respondent maintains that the appellant has suffered no non-material damage as a result of the disputed decision and that the appellant's compensation claim is unsubstantiated; it therefore requests that the Tribunal declare the appeal inadmissible and dismiss the case or reject the appellant's claims in their entirety as devoid of merit.

D. Considerations and conclusions

29. In the present appeal, the respondent contends that the appeal is moot as the appellant retained all G22 benefits, resigned from NCIA before the end date of his personal grade and transferred to a G22 post in NATO, suffering no actual harm. The appellant maintains that he still has a legal interest, and seeks annulment and compensation for non-material damage.

30. While the appellant maintains his request for annulment, it is observed that, following his resignation from the respondent Agency, he was appointed to another NATO Agency at grade G22 before the expiry of his personal grade (G22). In these circumstances, the annulment proceedings must be regarded as having become devoid of purpose, since a ruling on annulment would no longer give rise to any practical legal

effects. The Tribunal therefore considers it unnecessary to rule on the annulment requests or to examine the substantive legality of the contested decisions.

31. The Tribunal nevertheless retains jurisdiction to examine the appellant's claim for non-material damage compensation as a separate head of relief.

32. The appellant requests compensation for non-material damage, alleging that the downgrade of his position had tangible effects on his legal position and professional standing, which caused reputational damage and a period of undue uncertainty and anxiety after his long service in the Organization. He assesses his non-material damage at €30,000, claiming that the respondent failed to meet its obligations arising from the principles of equal treatment, duty of care and adequate reasoning, transparency, and good administration, *inter alia*, by disregarding established practices and improperly following Clearing House procedures. In this respect, he puts forward several pleas.

33. The Tribunal will address the appellant's abovementioned allegations; however, its review is limited to the alleged non-material damage.

34. The Tribunal observes that the core of the dispute arises from the reorganization measures implemented following the restructuring of AirC2 through the Functional Review. In this context, the ASB approved an organizational structure which reduced the number of senior posts and provided for the retention of only one G22 leading position within the restructured AirC2. Consequently, the appellant's former G22 position was redesigned and downgraded to G20; yet, he was granted a personal G22 grade – first for three years, later amended to five – and access to the Clearing House.

35. The Tribunal, at the outset, recognizes that in the context of restructuring, the Organization and the relevant authorities involved in grading posts enjoy broad discretion. It results from the case law of the Tribunal that during the course of the reorganization of a NATO structure, an apparently serious and coherent process must be followed to meet the requirements of a changing and downsized environment (see paragraph 46, Joined Cases Nos 2016/1086 and 2016/1093). Thus, the decisions taken in the course of this process must regularly be taken in the exercise of discretionary powers of the authorities concerned without any abuse of powers or indication of arbitrariness.

36. The appellant contends that the respondent departed from established practices applicable in cases of reorganization, pursuant to which affected staff members are either reassigned to posts at the same grade or allowed to retain a personal grade until the age of 60 or retirement. In this regard, the appellant alleges that certain staff members were reassigned without interviews and without the granting of personal grades, while some others retained their personal grades beyond the age of 60. He further refers to a G22 post allegedly planned for creation but never offered to him. In addition, he maintains that AirC2 previously comprised four additional G22 posts, three of which were eliminated through retirements or transfers without any downgrading measures, thereby leaving him as the sole staff member subjected to a downgrade, in alleged breach of the principle of equal treatment.

37. The respondent, for its part, explains that the CPR provides a range of instruments for the management of reorganizations, such as reassignment, the granting of personal

grades and post suppression, and that each situation is assessed on an individual, case-by-case basis. It maintains that its internal practice of exploring alternatives does not restrict the discretion of the GM. The respondent further submits that the staff members referred to by the appellant were reassigned within NCIA on the basis of skill-based assessments aligned with organizational needs, whereas in the appellant's case no vacant G22 post existed, and he was offered to remain in a downgraded position within the new AirC2. The respondent also disputes the appellant's assertion that a planned G22 vacancy, namely the Agency Security Officer post, should have been offered to him, clarifying that this post was created only on 27 August 2025, after the appellant's resignation and prior to his transfer to another NATO Agency, and that, in any event, the post is unrelated to the appellant's former functions and requires critical skills which he does not possess.

38. Based on the information and documents submitted in the file, the Tribunal concludes that during the downgrade of the appellant's post, an apparently serious and coherent process was followed, and that the Organization sought to make considered and nuanced judgments in the exercise of its discretionary powers in the absence of a showing of discrimination on prohibited grounds or indication of arbitrariness.

39. The Tribunal points out that the fact of some staff members having been reassigned to the same grade during the reorganization does not mean that the downgrade of the appellant's post constitutes unequal treatment in itself. The Tribunal notes the respondent's clarification that two former AMDC2 staff members were reassigned to G22 posts within the Agency several months before the appellant's downgrading, i.e. prior to the approval of the structural plan, and observes that the appellant has provided no factual or other evidence to establish the existence of any discrimination in comparison with those staff members.

40. As regards the appellant's contention that the Agency's common practice is to maintain a personal grade until the age of 60 or retirement, the Tribunal notes that, pursuant to Article 58.4 of the CPR, the GM has discretion to set a personal grade duration. In this respect, the Tribunal takes note of the respondent's explanation that, in the context of reorganizations, the Agency's established practice is to limit the duration of personal grades to a maximum of five years, a limit which has not been exceeded except for two legacy cases predating the establishment of NCIA, introduced solely to safeguard the CPR rights of the staff members concerned. The Tribunal recalls that the principle of equal treatment and non-discrimination requires that comparable situations not be treated differently and different situations not be treated identically, unless such treatment is objectively justified (see AT judgment in Cases Nos. 889, 890), and observes that the appellant is not in a situation comparable to those exceptional cases. Considering that the appellant was also granted the maximum personal grade duration in accordance with the Agency's established practice, his contention in this regard must be rejected as unfounded.

41. As regards the appellant's allegations of a breach of the principles of transparency and the duty to state reasons, the Tribunal recalls that the purpose of the obligation to provide reasons is, first, to provide the interested party with enough information to allow him/her to determine whether the contested decision is justified or otherwise is tainted by an error that makes its legality questionable, and, second, to enable the Tribunal to perform judicial oversight thereof. Thus, the obligation for substantiation implies that the

person who is the subject of a decision that constitutes grounds for grievance must be put in a position to clearly and unequivocally understand the decision-maker's reasoning; the extent of this obligation must be viewed in terms of the practical circumstances of each case (see AT judgments in Cases Nos. 889, 890 and 897).

42. In the present case, the Tribunal observes that the appellant was aware of the restructuring and the Functional Review process, in respect of which the respondent also organized a dedicated Q&A session to address staff members' questions. The Tribunal also notes, as clarified by the respondent, that the Q&A session relied upon by the appellant, which allegedly contained a statement indicating that no downgrades were planned, concerned exclusively A4 posts and is therefore irrelevant to the appellant's claims. The Tribunal further observes that the respondent clearly set out the rationale for the downgrading of the appellant's post in its responses to the administrative review request and to the complaint, and that it likewise expressly explained the rationale and justification of the duration of the personal grade at five years in its response to the complaint – where it considered it appropriate to provide additional time and stability by extending the personal grade to the maximum duration of five years –, i.e. prior to the lodging of the present appeal. In light of the foregoing, the Tribunal considers that the appellant was placed in a position to understand the decision-maker's reasoning and, accordingly, rejects his pleas alleging insufficient reasoning and lack of transparency.

43. Concerning the duty of care, the appellant holds that the respondent did not take into consideration his interests as a staff member, arguing that it forced him into an unfair choice – resign to protect the rights tied to his G22 grade or stay and accept a downgrade to G20 – while subjecting him to prolonged uncertainty and stress harmful to his health.

44. The Tribunal notes that, as a matter of good administrative practice, in order to decrease the stress levels of staff members and avoid them having to face difficulties under a reorganization, sufficient measures are expected to be put in place. In the present case, the Tribunal finds that, in the absence of any available post at the same grade, the reassignment to a lower-graded position combined with a personal grade constitutes a proper means of avoiding redundancy. It further observes that, in order to mitigate the impact of the downgrade and to afford the appellant sufficient time to seek alternative employment, the appellant was granted a personal grade for the maximum duration of five years, together with access to the Clearing House. It is also recorded that, prior to the expiry of the duration of his personal grade, the appellant found employment as Deputy Programme Manager (G22) at HQ Supreme Allied Commander Transformation within NATO. Therefore, the Tribunal concludes that the respondent fulfilled its duty of care and the appellant's contention in this respect fails.

45. Lastly, the appellant alleges that the Clearing House procedure was not properly applied, arguing that the respondent was obliged to place him automatically in the Clearing House once he had been invited, including from 11 June 2024 when he was orally informed, and that, in respect of the positions applied for, the respondent failed to apply the Clearing House procedure and instead treated him as a standard external candidate. The respondent disputes this claim, contending that the Clearing House rules are triggered only after the granting of a personal grade and upon submission of a formal request for inclusion in the Clearing House through an application form.

46. The Tribunal draws attention to the Clearing House Procedural Arrangements, Article II-2(b), which provide that only staff members retained on a personal grade as described in Article 58.4 of the CPR shall be included in the Clearing House, and notes that the Clearing House mechanism, therefore, applies only after a personal grade has been formally granted. Besides, Appendix I to Annex I of the Arrangements provides that *"As a staff member who is considered to be redundant/non-renewed staff/staff on personal grade, you may request to be placed on the 'NATO Clearing House'[…] Please complete the form below and return it to the HR Manager without delay should you wish to make use of this facility*". Accordingly, the Tribunal recalls that no priority may be automatically implemented without a declaration of will from the staff member (see AT Judgment in Case No. 2014/1030). It is established that the appellant's first three applications were submitted prior to the granting of his personal grade, and that, despite having been invited to do so, there is no evidence that he requested inclusion in the Clearing House after the personal grade was awarded. Accordingly, the Tribunal concludes that all of his applications, including the fourth application submitted after the granting of the personal grade, were appropriately evaluated under the standard recruitment process. For these reasons, the appellant's claims in this respect must be dismissed.

47. In light of the foregoing, the arguments put forward by the appellant to support his submissions on compensation for non-material damage have revealed no irregularity by the respondent for which it could be held liable, and therefore, must be dismissed as groundless.

48. It follows from all the foregoing that the appeal must be dismissed in its entirety.

E. Costs

49. Article 6.8.2 of Annex IX to the CPR provides as follows:

> In cases where it is admitted that there were good grounds for the appeal, the Tribunal shall order the NATO body to reimburse, within reasonable limits, justified expenses incurred by the appellant [...].

50. The appeal being dismissed, no reimbursement of costs is due.

F. Decision

FOR THESE REASONS,

The Tribunal decides that:

- The appeal is dismissed.

Done in Brussels, on 21 January 2026.

(signed) Louise Otis, President
(signed) Seran Karatarı Köstü
(signed) Thomas Laker

(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(PRE-O)(2025)0001

Order

Case No. 2024/1396

Appellant

v.

NATO Science and Technology Organization Centre for Maritime Research and Experimentation

Respondent

Brussels, 12 March 2025

Original: English

Keywords: withdrawal.

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The President of the NATO Administrative Tribunal,

- Considering that [appellant] submitted an appeal with the NATO Administrative Tribunal ("AT") on 28 November 2024, registered under Case No. 2024/1396, against the NATO Science and Technology Organization Centre for Maritime Research and Experimentation ("CMRE");

- Considering that the AT Registrar received, on 10 March 2025, communication from the appellant that the appeal can be withdrawn;

- Having regard to Rule 17 of the AT Rules of Procedures whereby the President:

> […] may accept the withdrawal without convening the Tribunal or a Panel for this purpose, provided the withdrawal is unconditional.

- Observing that the withdrawal is indeed unconditional and that nothing stands against it being accepted;

DECIDES

- The request for withdrawal is granted and the appeal is dismissed.

Done in Brussels, on 12 March 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(PRE-O)(2025)0002

Order

Case No. 2025/1406 and Case No. 2025/1411

Appellant

v.

NATO Support and Procurement Agency
Respondent

Brussels, 11 August 2025

Original: English

Keywords: joining cases.

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The President of the NATO Administrative Tribunal,

- Considering that [appellant] submitted a first appeal with the NATO Administrative Tribunal (AT) against the NATO Support and Procurement Agency ("NSPA"), on 30 April 2025 and registered under Case No. 2025/1406;

- Considering that [appellant] submitted a second appeal, on 4 July 2025, and registered under Case No. 2025/1411;

- Having regard to Rule 13 of the AT Rules of Procedure, which provides:

> The Tribunal or, when the Tribunal is not in session, the President may decide to join cases.

DECIDES

- Case No. 2025/1406 and Case No. 2025/1411 are joined.
- Both Cases shall be heard once the written procedure in Case No. 2025/1411 is completed.

Done in Brussels, on 11 August 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(PRE-O)(2025)0003

Order

Case No. 2025/1413 and Case No. 2025/1419

Appellant

v.

NATO Support and Procurement Agency
Respondent

Brussels, 21 October 2025

Original: English

Keywords: joining cases.

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The President of the NATO Administrative Tribunal,

- Considering that Mr [*name*] submitted a first appeal with the NATO Administrative Tribunal (AT) against the NATO Support and Procurement Agency ("NSPA"), on 14 July 2025 and registered under Case No. 2025/1413;

- Considering that Mr [*name*] submitted a second appeal, on 30 September 2025, and registered under Case No. 2025/1419;

- Having regard to Rule 13 of the AT Rules of Procedure, which provides:

> The Tribunal or, when the Tribunal is not in session, the President may decide to join cases.

DECIDES

- Case No. 2025/1413 and Case No. 2025/1419 are joined.
- Both Cases shall be heard once the written procedure in Case No. 2025/1419 is completed.

Done in Brussels, on 21 October 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(PRE-O)(2025)0004

Order

Case No. 2025/1414

Appellant

v.

NATO International Staff
Respondent

Brussels, 21 November 2025

Original: English

Keywords: withdrawal.

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The President of the NATO Administrative Tribunal,

- Considering that Mr [*name*] submitted an appeal with the NATO Administrative Tribunal (AT) on 14 August 2025, registered under Case No. 2025/1414 on 18 August 2025, against the NATO International Staff (IS);

- Considering that the AT Registrar received, on 20 November 2025, communication that the appellant decided to withdraw his appeal;

- Having regard to Rule 17 of the AT Rules of Procedures whereby the President:

> […] may accept the withdrawal without convening the Tribunal or a Panel for this purpose, provided the withdrawal is unconditional.

- Observing that the withdrawal is indeed unconditional and that nothing stands against it being accepted;

DECIDES

- The request for withdrawal is granted and the appeal is dismissed.

Done in Brussels, on 21 November 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(PRE-O)(2025)0005

Order

Case No. 2025/1427

Joined Cases Nos 2025/1406-1411

Appellant

v.

NATO Support and Procurement Agency
Respondent

Brussels, 26 November 2025

Original: English

Keywords: joining cases.

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The President of the NATO Administrative Tribunal,

- Considering that Mr [*name*] submitted a first appeal with the NATO Administrative Tribunal (AT) against the NATO Support and Procurement Agency ("NSPA"), on 30 April 2025, registered under Case No. 2025/1406, and a second appeal, on 4 July 2025, registered under Case No. 2025/1411 (both cases were joined by Order AT(PRE-O)(2025)0002 dated 11 August 2025);

- Considering that Mr [*name*] submitted a third appeal, on 7 November 2025, registered under Case No. 2025/1427;

- Having regard to Rule 13 of the AT Rules of Procedure, which provides:

> The Tribunal or, when the Tribunal is not in session, the President may decide to join cases.

DECIDES

- Case No. 2025/1427 and Joined Cases Nos 2025/1406-1411 are joined.
- The cases shall be heard once the written procedure in Case No. 2025/1427 is completed.

Done in Brussels, on 26 November 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(PRE-O)(2025)0006

Order

Case No. 2025/1401

Appellant

v.

NATO Communications and Information Agency

Respondent

Brussels, 15 December 2025

Original: English

Keywords: Rule 23 suspension of proceedings.

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The President of the NATO Administrative Tribunal,

- Considering that Mr [*name*] submitted an appeal with the NATO Administrative Tribunal (AT) on 1 April 2025 against the NATO Communications and Information Agency (NCIA) and registered under Case No. 2025/1401;

- Having regard to the letters sent by both parties on 12 December 2025 informing that they are in the process to settle the dispute amicably and are requesting to postpone *sine die* the hearing of the case scheduled for 18 December 2025,

- Considering Rule 23 of the ROP, which provides:

> 1. The Tribunal or, when the Tribunal is not in session, the President shall rule on any request by the parties to suspend the proceedings to allow them to explore the possibilities of an amicable settlement of the dispute.
> 2. The Tribunal or, when the Tribunal is not in session, the President may at any time, including during the hearings, encourage mediation or invite direct discussions aimed at putting an end to the dispute, and may adopt appropriate measures with a view to facilitating such settlement. With the consent of the parties, the proceedings shall be suspended. If an agreement is not reached, the proceedings will continue.
> 3. The process of amicable settlement is entirely confidential and set without prejudice.
> 4. No opinion expressed, suggestion, proposal, concession, or document drawn up for the purposes of seeking an amicable settlement may be relied on for any purpose by the Tribunal or the parties in the contentious proceedings.

DECIDES

- The hearing is suspended *sine die*;
- In the case parties inform the Tribunal that they have failed to agree on a final settlement of the dispute, the hearing of the case shall resume at the earliest Tribunal's session; and
- Parties shall keep the Tribunal informed about their progress in the negotiations.

Done in Brussels, on 15 December 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(PRE-O)(2025)0007

Order

Case No. 2025/1401

Appellant

v.

NATO Communications and Information Agency
Respondent

Brussels, 19 December 2025

Original: English

Keywords: withdrawal.

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The President of the NATO Administrative Tribunal,

- Considering that Mr [*name*] submitted an appeal with the NATO Administrative Tribunal (AT) on 25 March 2025 and registered under Case No. 2025/1401, on 1 April 2025, against the NATO Communications and Information Agency (NCIA);

- Considering the order the AT rendered, under Rule 23 of the Tribunal's ROP, on 15 December 2025, suspending the proceedings upon request of the parties;

- Considering that the AT Registrar received, on 18 December 2025, communication that the parties settled the case and decided to withdraw the appeal;

- Having regard to Rule 17 of the AT Rules of Procedures whereby the President:

> […] may accept the withdrawal without convening the Tribunal or a Panel for this purpose, provided the withdrawal is unconditional.

- Observing that the withdrawal is indeed unconditional and that nothing stands against it being accepted;

DECIDES

- The request for withdrawal is granted and the appeal is dismissed.

Done in Brussels, on 19 December 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
TRIBUNAL ADMINISTRATIF

AT(TRI-O)(2025)0002

Order

Case No. 2024/1398

Appellant

v.

NATO Airborne Early Warning & Control Programme Management Agency
Respondent

Brussels, 23 October 2025

Original: English

Keywords: Rule 28, Rule 29 and Rule 30 of the ROP.

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This order is rendered by a Panel of the Administrative Tribunal of the North Atlantic Treaty Organization (NATO), composed of Ms Louise Otis, President, Mr Thomas Laker and Mr Fabien Raynaud, judges, having regard to the appellant's requests dated 23 July and 7 August 2025.

A. Procedural background

1. On 8 July 2025, the Tribunal rendered its judgment in Case No. 2024/1398 dismissing the appellant's contentions against the NATO Airborne Early Warning & Control Programme Management Agency ("NAPMA") as unfounded. The appeal challenged the General Manager's disciplinary decision of 1 October 2024 sanctioning him for alleged acts of sexual harassment as well as the decisions of 30 September and 31 October 2024 pertaining to the non-renewal of his definite duration contract and the rejection of his administrative review/mediation request.

2. On 23 July 2025, the Tribunal's Registrar received from the appellant a request for a re-hearing under Rule 29 of the Tribunal's Rules of Procedure (ROP).

3. Rule 29 "Revision of Judgments" of the Tribunal's ROP reads as follows:

> 1. In accordance with Article 6.8.4 of Annex IX, either party may petition the Tribunal for a re-hearing should a determining fact not have been known by the Tribunal and by the party requesting a re-hearing at the time of the Tribunal's judgment.
>
> 2. Petitions for a re-hearing must be made within 30 days from the date on which the above-mentioned fact becomes known, or, in any case within 5 years from the date of the judgment. The Registrar shall transmit the petition to the President, and transmit copies to the HONB and OLA. The HONB will have fifteen days to submit comments.
>
> 3. The Tribunal may decide in a given case that no oral hearing is required and a decision can be taken on the basis of the written record before it.

4. On 7 August 2025, the Tribunal's Registrar received from the appellant a request for rectification of error under Rule 28 of the ROP.

5. Rule 28 "Rectification of error" of the Tribunal's ROP reads as follows:

> Clerical and arithmetical errors in the judgment may be corrected by the Tribunal on its own initiative or at the request of a party.

6. On 15 September 2025, the Tribunal's Registrar received from the appellant a request for clarification of judgment under Rule 30 of the ROP.

7. Rule 30 “Clarification of Judgments” of the Tribunal’s ROP reads as follows:

> 1. After a judgment has been rendered, a party may, within 90 days of the notification of the judgment, request from the Tribunal a clarification of the operative provisions of the judgment.
>
> 2. The request for clarification shall be admissible only if it states with sufficient particularity in what respect the operative provisions of the judgment appear obscure, incomplete or inconsistent.
>
> 3. The Tribunal shall, after giving the other party or parties a reasonable opportunity to present views on the matter, decide whether to admit the request for clarification. If the request is admitted, the Tribunal shall issue its clarification, which shall thereupon become part of the original judgment.

8. On 24 September 2025, in accordance with paragraph 3 of Rule 30, the Tribunal invited the respondent to provide its views on the appellant’s request. The repondent provided such views on 7 October 2025.

B. Considerations and conclusions

9. The appellant seeks a revision of that judgment, alleging that the Tribunal failed to take into account material facts and committed material errors of fact or law. Furthermore, he alleges that the Tribunal did not take into account some of its previous decisions that could have changed the outcome of his case.

10. The appellant also seeks clarification of several operative provisions on grounds that they are incomplete, and/or inconsistent with case law. In the Rule 30 request, he categorises his demands into what he considers to be “Major complaints not mentioned in the judgment”, “Main contentions listed, but not addressed”, “Contentions addressed, with no, insufficient, or confusing discussion/explanation”.

11. Pursuant to Article 6.8.3 of the CPR the Tribunal’s judgments “shall be final and not subject to any type of appeal” and according to Rule 27.7 of the ROP, these judgments shall be “final and binding” and have *res judicata* authority. They may therefore be reviewed only in exceptional circumstances and on strictly limited grounds. Under Rule 29 of the Rules of the Tribunal, the only admissible ground for a re-hearing rests on a determining fact not having been known by the Tribunal and put forward by the party requesting the revision. This determining fact, unknown at the time of the judgment, must have exerted a decisive and definitive influence on the outcome of the appeal.

12. With respect to his requests under Rules 28 and 29, the appellant contends that in its judgment in Case No. 2024/1398, the Tribunal failed *inter alia*, (1) to consider and apply its own jurisprudence, (2) to consider that he has not been provided with the investigation report, (3) to consider the “violations” in the investigation report, (4) to consider that he had no opportunity to reply and comment on the investigation report, (5) to consider that he had no opportunity to provide “input” to the GM before the

disciplinary action, (6) to address the complaints regarding immediate suspensions, and (7) to apply the principles related to timeline and duty of care.

13. With respect to his requests under Rule 30, the appellant further details his contentions by addressing specific matters relating to, *inter alia*: the 8 December 2023 and 1 May 2024 suspensions; allegations of double jeopardy, speculations of external input in the Tribunal's assessment of evidence and siding with the respondent; questions on the investigation methodology; failures and shortcomings in the conduct of the disciplinary proceedings including the violation of the right to be heard and the length of the investigations and procedure; attribution of the penalty with reference to the provisions of the NATO harassment policy and factors considered in the attribution of the misconduct; detailed actions/inactions that would further demonstrate a breach in the duty of care; proportionality of the sanction; rationale on the contract notification and extention.

14. The Tribunal thoroughly analysed all the allegations made in the appellant's three requests.

15. The appellant's submissions do not support the conclusion that the judgment in Case No. 2024/1398 should be reviewed. The Tribunal concluded that there is no evidence that the procedure that was followed and that led to the disciplinary proceedings and, ultimately, the non-renewal of the appellant's contract, did not take place according to the applicable rules. As underlined in the judgment, the Tribunal found no indication of a breach by the respondent of the duty of care it owed to the appellant. On the contrary, the respondent acted with diligence in conducting the disciplinary proceedings. The appellant contests that his actions amounted to sexual harassment, thus alleging a "mistake of law". The Tribunal remarks that his undisputed actions were not only unwelcome and intrusive. Instead, in the light of the circumstances of the situation, and given the appellant's position and seniority, they can be considered as harassment within the meaning of the NATO Policy on the Prevention, Management and Combating of Harassment, Bullying and Discrimination in the Workplace.

16. The appellant is, in fact, seeking to appeal the judgement alleging mainly that the Tribunal incorrectly appraised the facts and mistakenly applied the law. These allegations are not an admissible ground for revision.

17. The appellant's arguments do not relate to "a determining fact not having been known" by the Tribunal but are essentially an attempt to challenge the Tribunal's considerations and conclusions in its judgment in Case No. 2024/1398 and to reopen issues already addressed in the judgment. The same applies for the appellant's requests for clarification.

18. The legal assessments made by the Tribunal in a judgment cannot be challenged in an application for review (see Judgments 4906, consideration 6, 4440, consideration 4, and 3984, consideration 5 of the ILOAT). Moreover, with his Rule 30 request, the appellant is not identifying provisions which are "obscure, incomplete or inconsistent" but rather is essentially revisiting arguments advanced unsuccessfully and expressing disagreement with the Tribunal's appraisal of the evidence and interpretation of the law.

These matters are *res judicata* and the complainant puts forward no legitimate ground to revise or clarify the findings made in the judgment in Case No. 2024/1398.

19. Furthermore, the appellant's request of 6 August 2025 to make several corrections to the Tribunal's judgement must similarly be rejected. The Tribunal notes in this regard that the appellant essentially requests that the Tribunal re-write parts of its judgment without, however, bringing forward valid grounds that would justify the need to do so.

20. With regard to the clerical errors present in the judgement (reference in paragraph 68 to Article 60.4 of the Civilian Personnel Regulations (CPR), in paragraph 77 to Article 5.1.1 instead of Article 5.5.1. of the CPR and the date in the footnote of paragraph 72) have already been corrected in the anonymised version which will be available to the public.

21. Finally, in his request of 23 July, the appellant alleges that:

> The new information that has come to light is contained in AT-J(2024)0010, which is extraordinarily pertinent and contains many significant determining facts. The judgment was issued on 2 April 2024 , […] however it was not available publicly until sometime in early 2025. The appellant and the legal team became aware of it during the week of 24 June 2025, too late to be included in any of the 2024/1398 documents and too late to be analysed then highlighted at the 26 June 2025 hearing.
>
> AT-J(2024)0010 references another judgment AT-J(2022)0003, also previously unknown by the Appellant and legal team. […] The new facts provided via AT-J(2022)0003 are pertinent and directly related to the immediate suspensions in 2024/1398.

The Tribunal notes that all the judgments of the Administrative Tribunal (AT) are widely available. They are published online on the webpage of the AT and, after each session they are available on the AT portal – access to which is granted to any interested persons upon request. Further, parties to an appeal (in person or through their representatives) have automatic access to the library containing all judgments, by virtue of use of the e-submission tool or can avail themselves of the support of the AT Registrar's Office. The Tribunal emphasises that the cases mentioned by the appellant in his request for revision and allegedly constituting "new information […] unknown by the Appellant and legal team" were argued by his lawyers. Such allegations in any case do not qualify as "new facts" within the meaning of Rule 29 of the ROP.

22. It follows from the foregoing that the appellant's applications for revision, corrections and clarification of judgment are clearly devoid of merit and will therefore be summarily dismissed accordingly.

C. Decision

FOR THESE REASONS,

The Tribunal decides that:

- The appellant's requests are dismissed.

Done in Brussels, on 23 October 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar

Certified by
the Registrar
(signed) Laura Maglia

ADMINISTRATIVE TRIBUNAL
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AT(TRI-O)(2025)0003

Order

Case No. 2025/1402

Appellant

v.

NATO International Staff
Respondent

Brussels, 27 November 2025

Original: English

Keywords: Rule 30 – clarification of judgments.

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This order is rendered by a Panel of the North Atlantic Treaty Organization (NATO) Administrative Tribunal, composed of Ms Louise Otis, President, Mr Thomas Laker and Ms Anne Trebilcock, judges, having regard to the appellant's request dated 3 November 2025.

A. Proceedings

1. On 3 November 2025, the appellant requested a "minor clarification and correction" of the Tribunal's Judgment in [*name*] *v.* NATO IS, Case No. 2025/1402 of 29 October 2025. He invoked Rule 30 of the Rules of Procedure of the NATO Administrative Tribunal ("the Tribunal"), which permits "clarification of the operative provisions of the judgment." (Rule 30, paragraph 1). Specifically, the appellant seeks to have the phrase "Following disciplinary proceedings relating to his conduct while a staff member…" replaced by "Following disciplinary proceedings relating to his conduct while being a retired staff member."

2. In accordance with the provisions of Rule 30, paragraph 3, the respondent has been given an opportunity to present views on the matter. It did so on 21 November 2025, stating as follows:

> The Appellant's request (a "minor clarification and correction" of the factual background section of the decision of the Tribunal in Case No 2025/1402) does not concern and has no bearing on the operative provisions of the judgment. The conditions set out in Rule 30 are not met. The request for clarification is inadmissible.

The respondent also recalled that judgments of the Tribunal are final and binding.

B. Considerations and conclusions

3. The Tribunal notes that the phrase cited by the appellant appeared in the "Factual background" of the Judgment, not in the section containing the judgment and relief. It does not concern the operative parts of the judgment.

4. A request for clarification is admissible "only if it states with sufficient particularity in what respect the operative provisions of the judgment appear obscure, incomplete or inconsistent." The appellant's request under Rule 30 does not meet any of these grounds, and is therefore denied.

5. In addition, the Tribunal recalls that the disciplinary procedure examined by the Tribunal in its Judgment in Case No. 2017/1104 of 21 November 2017 was initiated on the following basis:

> Subsequent to his retirement, appellant was convicted by the German Federal Court on 19 November 2013 on two counts of treasonous espionage and a count of attempted treasonous espionage. The charges involved appellant's conduct related to his employment as a NATO staff member. …. (paragraph 6 of the Judgment).

6. The Judgments in Case No. 2017/1104 and Case No. 2025/1402 are “final and binding” in accordance with Article 6.8.4 of Annex IX to the Civilian Personnel Regulations.

C. Decision

FOR THESE REASONS,

The Tribunal decides that:

- The request for clarification is dismissed.

Done in Brussels, on 27 November 2025.

(signed) Louise Otis, President
(signed) Laura Maglia, Registrar