8. On 13 January 2021, the Under-Secretary-General for Operational Support (USG/DOS) sent a memorandum to Heads of Departments, Offices, Regional Commissions, Offices Away from Headquarters, and Field Missions, seeking their support for consideration of staff members who were affected by downsizing and closure of entities across the Secretariat, especially those with permanent and continuing appointments.[6]

9. On 14 January 2021, Mr. Koura was given notice of the non-renewal of his FTA, which was expiring on 30 April 2021.[7]

12. Consequently, AM was placed in the post of Conduct and Discipline Officer

should be applied to the United States Prime Rate 60 days from the date this Judgment becomes executable, and dismissed all other claims.

19. As the UNDT noted, Mr. Koura had cited two grounds for contending that the Administration had not acted regularly.[16] The first was that he had a legitimate expectation that his FTA would be renewed to December 2021 because in November 2021 he had received a PA to that effect. The second was that since UNAMID was liquidated, the Administration was under a moral obligation to find him a suitable position for lateral placement because the non-renewal of his FTA had resulted from abnormal circumstances. During the proceedings, Mr. Koura alleged that the Administration had laterally moved a similarly-placed staff member to

22. However, the UNDT held that Mr. Koura had proved by clear and convincing evidence that the non-renewal of his FTA had been unlawful because the rules had been applied in a discriminatory manner.[20] The Secretary-General decided to exceptionally use a Delegation Instrument to reassign a staff member placed similarly to Mr. Koura. In so doing, the Secretary-General did not follow the laid down procedures for staff selection. The process was carried out without transparency and the result was perceived as prejudici

career, and order that the compensation be "pensionable" and the rescission of the contested decision be effected as continuing service on an FTA.

26. Mr. Koura argues that the UNDT erred on a question of fact, resulting in a manifestly unreasonable decision. The amount of compensation did not take into account the full scope of damage he incurred. Upon separation from UNAMID, he lost his income and it was devastating for him and his family.

27. First, Mr. Koura submits that the UNDT used inappropriately soft language for the grave unlawfulness of the contested decision. By referring to "humanitarian grounds" for justifying the placement of AM at the United Nations Headquarters, the Secretary-General misrepresented its reasons. The act of misrepresentation should be included in determining the amount of compensation.

28. Second, Mr. Koura contends that he established that he would not have had any interruption in service, had he been given the opportunity to compete fairly for the position at Headquarters. This is supported by the fact that he was a qualified and suitable candidate and was subsequently selected for a post with the same functions with the United Nations Integrated Transition Assistance Mission in Sudan (UNITAMS). Instead, he faced a set-back in his career, embarrassment and emotional distress. The amount of compensation should include and ensure continuity of his service, take into account the loss of his ability to apply for a continuing appointment and include the damage of the interruption in his service. For 11 months, he was unemployed.

29. Third, Mr. Koura submits that the amount of compensation must take into account the fact that by denying him the same treatment afforded to AM, the Administration breached Staff Rule 12.3(b) and made an exception that was prejudicial to him. Moreover, there was another position, Training Officer at P-3, available at the time that he could have been placed in by a lateral reassignment.

30. The Secretary-General requests the Appeals Tribunal to dismiss the appeal, arguing that Mr. Koura has failed for purposes of his appeal to demonstrate that the UNDT erred in its award of remedies.

31. The Secretary-General submits that, contrary to Mr. Koura's assumption, the nature and gravity of the purported illegality is not relevant to determining the amount of in-lieu

selection in relation to that staff member. Since the process was not transparent, the result was found by the UNDT to be prejudicial to Mr. Koura, with his unequal treatment found to be improper and not justified in terms of the Staff Regulations and Rules.

46. There is no dispute that it was after the UNFSU requested the lateral reassignment of nationals whose contracts were expiring with UNAMID and who, for reasons of

Mr. Koura's personal circumstances were materially different from those of AM, the latter who could not be repatriated to Afghanistan for security reasons. The evidence did not show that Mr. Koura was treated differently to AM in a manner which was unfair to him or had the potential to impair his dignity or affect him adversely in circumstances which were patently unfair.

50. In finding differently, the UNDT erred in fact and in law and exceeded its jurisdiction. Mr. Koura had failed to rebut the presumption of regularity which applied to the decision taken. No nexus was shown between the reassignment of AM and the non-renewal of Mr. Koura's appointment. Considered objectively, a neutral, reasonable and informed bystander would, having regard to the facts, not hold a reasonable apprehension that the Secretary-General had been biased in choosing to favour AM over Mr. Koura for improper reasons.

51. It follows that the decision taken was not unlawful, unfair, unjust or motivated by bias, prejudice or improper motive and the UNDT erred in finding differently. The appeal of the Secretary-General stands therefore to be granted and the decision of the UNDT reversed. Given as much, Mr. Koura's appeal against the amount of compensation awarded therefore falls

52. Mr. Koura's appeal is dismissed. The Secretary-General's appeal is granted, and Judgment N0. UNDT/2023/136 is hereby reversed.

Original and Authoritative Version: English

Decision dated this 25th day of October 2024 in New York, United States.

(Signed)	*(Signed)*	*(Signed)*
Judge Savage, Presiding	Judge Forbang	Judge Sheha

Judgment published and entered into the Register on this 20th day of November 2024 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar