

UNDT/2009/071, Corcoran

UNAT Held or UNDT Pronouncements

Two types of interim measures - with different functions, preconditions, restrictions and scope - have to be clearly distinguished. Art. 13 RoP has to be applied exclusively during the pendency of the management evaluation, whereas art. 14 RoP is appropriate only during judicial review in terms of art. 2 and 8 Statute; in short: it is either 13 or 14 – never both. Orders based on art. 13 RoP become ineffective with the end of management evaluation. The present application had to be considered under art. 13 RoP since the contested decision of 12 October 2009 was released under new conditions and for additional reasons. If the Respondent provides reasons for the non-renewal of an FTA, these reasons must be supported by the facts, which was not the case in the present application. Outcome: Suspension of action was granted.

Decision Contested or Judgment/Order Appealed

The Applicant's FTA was not renewed because of her bad ePAS rating. The initial decision of 1 June 2008 was contested and the ePAS was rebutted. From then the Applicant's contract was renewed on only a monthly basis; that decision was also contested, now being case No. UNDT/GVA/2009/50. Finally the Applicant also initiated an OIOS investigation with regard to her supervisors. Upon rebuttal of her ePAS the Applicant's performance was rated higher. After sick leave the Applicant was put on sick leave without pay. The OIOS investigation was closed. On 12 October 2009 it was decided not to renew the appointment any longer. The Applicant applied for suspension of action.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Corcoran

Entity

DPKO

Case Number(s)

UNDT/GVA/2009/89

Tribunal

UNDT

Registry

Geneva

Date of Judgement

11 Nov 2009

Duty Judge

Judge Laker

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Applicable Law

Staff Regulations

- Regulation 4.5(c)

UNDT RoP

- Article 14

UNDT Statute

- Article 10.2
- Article 2.2

Related Judgments and Orders

UNDT/2009/003

UNDT/2009/007

UNDT/2009/008

UNDT/2009/054

UNDT/2009/036