

# **UNDT/2010/078, Miyazaki**

## UNAT Held or UNDT Pronouncements

ST/AI/292, dated 15 July 1982, provides measures in relation to the filing of adverse materials in personnel records, which measures were supposed to be interim in nature. In the context of the current framework of norms, ST/AI/292 alone does not provide adequate “rebuttal” procedures for short-term staff. The creation of two classes of short-term staff which potentially occurs via ST/AI/2002/3, based on management discretion is not fair; where the provisions of ST/AI/2002/3 are applied to some short-term staff and not others, this violates the doctrine of equal treatment in like circumstances. Outcome: The applicant is to be permitted to undertake a rebuttal process in respect of the Report. The Secretary-General may consider, in light of the changed staffing practice of the Organisation, in particular the increased usage of short-term staff, and the lessons learnt from this and similar cases, that further guidance should be issued on comprehensive policies to be availed to short-term staff, including on rebuttal processes, if any.

## Decision Contested or Judgment/Order Appealed

The applicant is a former staff member who was employed on a fixed-term contract. Prior to concluding her service, her performance was appraised by way of a Form P.10-E Report on Short-Term Staff which she considered incorrect and adverse to her interests. She sought a full rebuttal process of this appraisal but was denied it by the respondent. It is the administrative decision to deny this process that she contests.

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Miyazaki

## Entity

UN Secretariat

## Case Number(s)

UNDT/NY/2009/137

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

30 Apr 2010

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Appointment (type)

Fixed-term appointment

Performance management

Performance evaluation

## Applicable Law

### Administrative Instructions

- ST/AI/2002/3
- ST/AI/240/Rev.2
- ST/AI/292
- ST/AI/411

### UNDT RoP

- Article 14.1
- Article 8

### UNDT Statute

- Article 10.2

## Related Judgments and Orders

UNDT/2009/076

UNDT/2010/039