

# UNDT/2010/201, Glasgow

## UNAT Held or UNDT Pronouncements

UNDT found that the Applicant did not challenge the non-renewal of her contract in a timely manner and also did not rebut her final e-PAS rating as partially meeting expectations, which rating must be accepted by UNDT as final. UNDT found that the Applicant was aware, during her employment, of the criticisms concerning her performance and that it would have been reasonable for her to conclude that performance-related factors may have been considered by the Administration in deciding not to renew her contract. UNDT found that under Costa 2010-UNAT-036 it does not have the power to waive or suspend the time limits for requests for administrative review (see legal pronouncement below). UNDT observed that even if it were permitted to consider whether the deadlines should be waived, there were no exceptional circumstances in this case justifying the delay in the Applicant's filing of the request for administrative review. UNDT further found that, even if this application were receivable and even if the Applicant succeeded on the merits, it is highly unlikely that she would have been awarded any compensation as she transferred to a higher-level position before the expiration of her contract. Further, no submissions have been made with respect to any emotional distress. Outcome: The application was rejected in its entirety.

## Decision Contested or Judgment/Order Appealed

The Applicant appealed the decision not to renew her fixed-term appointment, submitting that she had not been informed at the time of the decision (communicated to her in writing) that it was due to her alleged poor performance.

## Legal Principle(s)

Time limits for administrative review and management evaluation: UNDT does not have the power to waive or suspend the time limits for requests for administrative review or requests for management evaluation (Costa 2010-UNAT-036). However, UNDT observed that the Statute of the Dispute Tribunal (see art. 8.1), as well as the Staff Rules (see staff rule 11.2), draw a distinction between requests for administrative review and management evaluation, on the one hand, and the actual administrative review and management evaluations, on the other. Requests for review or evaluation and the actual reviews and evaluations have different sets of deadlines and it is unclear whether the limitations in art. 8.3 of the Statute were intended to apply to the deadlines for requests for review or evaluation. Calculation of actual economic loss: Actual economic loss depends on the particular circumstances of each case. The staff member's subsequent earnings will be taken into consideration as a mitigating factor.

## Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Glasgow

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2010/034/UNAT/1679

Tribunal

UNDT

Registry  
New York  
Date of Judgement  
19 Nov 2010  
Language of Judgment  
English  
French  
Issuance Type  
Judgment  
Categories/Subcategories  
Appointment (type)  
Fixed-term appointment  
Jurisdiction / receivability (UNDT or first instance)  
Temporal (ratione temporis)  
Non-renewal  
Performance management  
Performance evaluation  
Applicable Law  
Administrative Instructions

- ST/AI/2002/3

Staff Rules

- Rule 11.2

UNDT Statute

- Article 8.1
- Article 8.3

Related Judgments and Orders  
2010-UNAT-036