

# **UNDT/2011/013, Mandol**

## **UNAT Held or UNDT Pronouncements**

While finding that there had been a procedural flaw in the FOPA evaluation, inasmuch as the Applicant had been denied a rebuttal, the Tribunal considered that there was not causal effect between this flaw and the non-renewal decision, noting that the contested decision refers only to the third and last appraisal, which was made in accordance with the applicable rules. Resolution 59/296 and reappointment of 300 series staff members under 100 series: The said resolution authorises the Secretary-General to reappoint staff members holding an appointment under the 300 series of former Staff Rules. It gives a discretionary power to the Administration, provided a number of conditions are fulfilled. By no means does it entail an automatic right to conversion for the staff members. Renewal of appointments under the 300 series of former Staff Rules: The decision to renew a contract governed by the 300 series of former Staff Rules falls within the discretionary power of the Administration. This power is not unfettered, as the Organization must act in good faith and observe the applicable procedural rules; its decisions must not be arbitrary or based on extraneous factors; and they must not be based on erroneous, fallacious or unlawful motives. While the Administration is not bound to give the reasons for its decision not to renew a contract, it must communicate the motive(s) thereof when the staff member contests the decision before the Tribunal. Performance appraisal for staff members appointed under the former Staff Rules 300 series: It results from a combined reading of former staff rule 301.4 and section 1 of ST/AI/2002/3 that 300-series staff members falling within this category must have their performance evaluated; however, this evaluation must not necessarily be conducted in accordance with ST/AI/2002/3. Having said that, whenever the Administration has showed that it intended to apply the system set out in ST/AI/2002/3 to the evaluation of a particular staff member, it will be bound to observe the provisions of this administrative instruction. Outcome: Application rejected on the merits

## **Decision Contested or Judgment/Order Appealed**

The Applicant contested the decision not to renew his contract.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Mandol

## Entity

UNAMI

## Case Number(s)

UNDT/GVA/2010/037

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

12 Jan 2011

## Duty Judge

Judge Cousin

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Appointment (type)

Appointment of Limited Duration

Non-renewal

Performance management

Performance evaluation

## Applicable Law

Administrative Instructions

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

Former Staff Rules

- Rule 301.4
- Rule 304.4(a)
- Rule 309.5(a)

GA Resolutions

- A/RES/59/296

## Related Judgments and Orders

2010-UNAT-021

UNDT/2010/211