

UNDT/2012/029, Diop

UNAT Held or UNDT Pronouncements

On the score of prima facie unlawfulness, having considered the facts of the case, the Tribunal held that everything pointed to a suspect reason for the non-renewal of the Applicant's contract. The Respondent did not give a clear reason for non-renewal, even after the Applicant specifically requested for it. The Tribunal, thus concluded that the decision not to renew the Applicant's contract was prima facie unlawful. With regard to particular urgency, the Tribunal found that this requirement was clearly met since the Applicant's contract was to expire on 29 February 2012. The Applicant had approached the Tribunal in a timely manner. The Applicant had not created the urgency himself as had been argued by the Respondent. On irreparable damage, the Tribunal observed that whereas mere economic loss deriving from the loss of employment can be compensated in damages, there is more to the harm caused by the non-renewal of a contract. There is a loss of career prospects, loss of self-esteem and unquantifiable potential harm to the Applicant's reputation. Therefore, in the case at hand, the Tribunal held that the deprivation of the employment to the Applicant for no apparent reason constituted moral harm, that could not be compensated by an award of damages. In view of the above findings, the Tribunal granted the application for suspension of action.

Decision Contested or Judgment/Order Appealed

The Applicant applied for a suspension of the UNODC's decision to separate him from service on the expiry of his fixed-term contract on 29 February 2012.

Legal Principle(s)

There are three statutory prerequisites contained in art. 2.2 of the UNDT Statute, i.e. prima facie unlawfulness, particular urgency and irreparable damage, that must all be satisfied for an application for suspension of action to be granted.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Diop

Entity

UNODC

Case Number(s)

UNDT/NBI/2012/11

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

22 Feb 2012

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters

Non-renewal

Separation from service

Suspension of action / interim measures

Applicable Law

UNDT RoP

- Article 13

UNDT Statute

- Article 2.2