

UNDT/2012/035, Castillo Cabrera

UNAT Held or UNDT Pronouncements

The Applicant submitted that she has a legitimate expectation of renewal and that the decision not to renew her contract was motivated by extraneous considerations. The Respondent submitted that the decision was taken as a result of UNMIT's downsizing in view of its eventual closure. The UNDT found that the requirement of urgency was satisfied. The UNDT found that the requirement of *prima facie* unlawfulness was also satisfied as the reason provided by the Respondent in support of the contested decision appeared to be unsupported by the facts and the documents in this case. The UNDT also found that the Applicant presented an arguable case of legitimate expectation of renewal beyond 19 March 2012. The UNDT found that in the circumstances of this case, the sudden deprivation of employment for no verifiable reason, when there was an arguable case that the Applicant had an expectation of renewal, would result in irreparable damage. The UNDT therefore found that the three conditions for a suspension of action, required under art. 2.2 of the Tribunal's Statute, have been met in this case.

Decision Contested or Judgment/Order Appealed

The Applicant, a Training Officer with the United Nations Integrated Mission in Timor-Leste ("UNMIT" or "Mission"), sought suspension of action, pending management evaluation, of the decision not to renew her contract beyond 19 March 2012.

Legal Principle(s)

Prima facie unlawfulness: Given the interim nature of the relief the Tribunal may grant for a suspension of action, an applicant must demonstrate only that the decision appears *prima facie* to be unlawful. For the *prima facie* unlawfulness test to be satisfied, it is enough for an applicant to present a fairly arguable case that the contested decision was influenced by some improper considerations, was

procedurally or substantively defective, or was contrary to the Administration's obligations to ensure that its decisions are proper and made in good faith. Irreparable damage: It is generally accepted that mere economic loss only is not enough to satisfy the requirement of irreparable damage. Depending on the circumstances of the case, harm to professional reputation and career prospects, harm to health, or sudden loss of employment may constitute irreparable damage. Outcome: Suspension of action granted.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Castillo Cabrera

Entity

UNMIT

Case Number(s)

UNDT/NY/2012/016

Tribunal

UNDT

Registry

New York

Date of Judgement

14 Mar 2012

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Irreparable damage

Particular urgency

Prima facie unlawfulness

Applicable Law

UNDT Statute

- Article 2.2