

UNDT/2012/068, Pirnea

UNAT Held or UNDT Pronouncements

The Tribunal held that whether an Applicant should be given reasons for the non-renewal of his or her fixed-term contract, even though fixed-term contracts carry no expectation of renewal, should be analyzed on a case by case basis. The Tribunal cited Obdeijn UNDT/2011/032 which stated that “even though a staff member does not have a right to an automatic renewal of a fixed-term contract, a decision not to renew such a contract may not be taken for improper motives, and the Tribunal is required to consider whether the motives were proper or whether countervailing circumstances existed in the decision not to renew the contract that may have tainted such decision with unlawfulness.” The Tribunal ruled that a proper reading of the request for the management evaluation indicated that the Applicant referred specifically to entitlements. Though the word DSA was not used, the Tribunal considered that legitimately the entitlements to which the Applicant claimed were due to him also encompassed the DSA entitlements. The Tribunal found that the Applicant was entitled to his DSA entitlements.

Accountability referral: the Tribunal left it up to the Secretary-General, pursuant to article 10.8 of its Statute, to take any action in regard to the conduct of the Chief Security Adviser and the Applicant’s supervisor.

Decision Contested or Judgment/Order Appealed

The Applicant, a former UNDSS staff member serving under a UNDP contract, contested the decision not to renew his fixed-term appointment upon its expiry on 26 February 2011, alleging that it was guided by extraneous motives and therefore unlawful. The Applicant further contended that the Organization did not inform him of the reasons for the non-renewal of his contract prior to its expiry and that he did not receive the Daily Subsistence Allowance (DSA) owed him.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

UNDT awarded the Applicant two years' net base salary. UNDT found that he was entitled to his DSA entitlements for the period he was posted in Nairobi, Kenya when his duty station was in Hargeisa, Somalia.

Full judgment

[Full judgment](#)

Applicants/Appellants

Pirnea

Entity

UNDP

Case Number(s)

UNDT/NBI/2011/022

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

10 May 2012

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Race

Non-renewal

Referral for accountability

Applicable Law

Staff Regulations

- Regulation 11.1(a)

Staff Rules

- Rule 11.2(a)
- Rule 4.13(c)

UNDT Statute

- Article 10.5
- Article 8.1(c)

UNRWA DT Statute

- Article 10.8

Related Judgments and Orders

2011-UNAT-178

UNDT/2011/032

UNDT/2011/007

UNDT/2010/040