

UNDT/2012/110, Applicant

UNAT Held or UNDT Pronouncements

Renewal of fixed-term appointments: A decision to extend the fixed-term appointment of a staff member for a short period of time contains in fact two decisions, on the hand a decision to extend, on the other, a decision to set a date beyond which the staff member's appointment will not be extended. Receivability of application against a renewal decision: It follows from staff rule 4.13(c) that when the fixed-term appointment of a staff member expires, that staff member has no right to renewal. Accordingly, a decision to extend a fixed-term appointment, even for a short period of time, is not a decision adversely affecting the staff member's rights and is not subject to appeal. Mootness: The Tribunal may not rescind decisions which have been reversed during the proceedings before the Tribunal. Compensation: For an administrative decision to give rise to compensation, the Tribunal must first determine that such decision is unlawful.

Decision Contested or Judgment/Order Appealed

The Applicant appealed the decisions to renew, as of 1 September 2011, her fixed-term appointment only for short periods of time on the ground that her performance during the period 2009-2010 did not meet expectations and pending completion of the rebuttal process she initiated against her 2009-2010 and 2010-2011 ePASes. As regards the Applicant's request for rescission of the contested decision, the Tribunal found that it was irreceivable insofar as decisions to extend a staff member's appointment are not decisions adversely affecting a staff member and thus are not subject to appeal. It further found that the request for rescission was moot insofar as the same decisions, which had the effect of setting a date beyond which the Applicant's appointment would not be extended, had been reversed, since the Applicant's appointment had been extended for one year effective 12 June 2012. As regards the Applicant's request for compensation, the Tribunal found that the contested decisions were unlawful for they were based on the Applicant's poor performance, which had not been established in accordance with the applicable rules. The Tribunal concluded that the Applicant suffered moral prejudice as a result of the contested decisions and awarded her a lump sum of CHF 10,000.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

OAJ

Case Number(s)

UNDT/GVA/2012/27

UNDT/GVA/2012/9

Tribunal

UNDT

Registry

Geneva

Date of Judgement

19 Jul 2012

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Appointment (type)

Fixed-term appointment

Compensation

Non-pecuniary (moral) damages

Non-renewal

Applicable Law

Staff Rules

- Rule 4.13(c)

Related Judgments and Orders

UNDT/2011/187

UNDT/2011/213