

# UNDT/2012/177, Ochem

## UNAT Held or UNDT Pronouncements

On the score of prima facie unlawfulness, the Tribunal concluded that the Respondent's decision not to renew the Applicant's appointment was prima facie unlawful having been motivated by erroneous factors. The Tribunal thus held that the Applicant had met his burden of proof by establishing that he had an arguable case of unlawfulness. With regard to particular urgency, the Tribunal found that this requirement was clearly met since the Applicant's contract was to expire on 9 November 2012. On irreparable damage, the Tribunal concluded that the Applicant was approaching the retirement age. The Tribunal also found that the Applicant would suffer irreparable harm as the prospects for employment were limited due to his age.

## Decision Contested or Judgment/Order Appealed

The Applicant applied for a suspension of the UNECA's decision not to renew his fixed-term appointment beyond 9 November 2012 pending management evaluation of the same decision which he had requested on 8 November 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

Outcome Extra Text

UNDT granted the suspension of action.

Full judgment

[Full judgment](#)

Applicants/Appellants

Ochem

Entity

UNECA

Case Number(s)

UNDT/NBI/2012/055

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

14 Nov 2012

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Separation from service

Suspension of action / interim measures

Irreparable damage

Particular urgency

Prima facie unlawfulness

Applicable Law

UNDT RoP

- Article 13

UNDT Statute

- Article 2.2