

# UNDT/2013/039, Gauthier

## UNAT Held or UNDT Pronouncements

. The Applicant claimed that the reason for the contested decision was not disclosed to her until the management evaluation stage and that the reason given was not supported legally or factually. The UNDT found that UNICEF was obliged to provide the Applicant with a reason for the non-renewal of her contract when she requested it. The UNDT found that according to the performance ratings provided prior to the non-renewal of the Applicant's contract, her performance, as a matter of law, cannot be regarded as unsatisfactory based on secs. 5.2 and 10.2 of CF/AI/2010-001 (Administrative instruction on separation from service). The UNDT found that the Respondent has been unable to justify in law or on the facts the reason given for the non-renewal of the Applicant's fixed-term appointment. The UNDT found for the Applicant, with relief to be determined in a separate ruling.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision of UNICEF not to renew her fixed-term appointment based on her allegedly unsatisfactory performance.

## Legal Principle(s)

Non-renewal/non-extension: UNICEF is provided with a significant degree of latitude when deciding whether or not to renew one of its staff member's fixed-term appointment. However, the decision not to renew must be correct in law and based on valid reasons supported by facts. Performance: It is a general requirement that managers must use established performance tools to record unsatisfactory performance, that performance issues shall be brought to the attention of staff members in a timely manner, and that proper time shall be given for improvement.

## Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Gauthier

Entity

UNICEF

Case Number(s)

UNDT/NY/2010/102

Tribunal

UNDT

Registry

New York

Date of Judgement

28 Feb 2013

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Performance management

Performance evaluation

Applicable Law

Laws of other entities (rules, regulations etc.)

Related Judgments and Orders

UNDT/2011/032

2010-UNAT-061

2010-UNAT-091

2011-UNAT-115

2011-UNAT-119

2012-UNAT-201