

UNDT/2013/063, Samuel-Thambiah

UNAT Held or UNDT Pronouncements

The Applicant was informed of the decision to not renew his contract, based on the “serious weaknesses in his performance” on 27 October 2008. Consequently, any request for administrative review of the decision to not renew his contract should have been filed within 60 days from the notification of the contested decision. The Applicant, due to the very negative review and comments contained in his PER, was on notice of the potentially inaccurate information contained therein its receipt in August 2009. The 15 June 2010 transmittal of the OIA investigation report, while potentially providing the Applicant with additional information regarding two entries, on one out of eight pages, within his PER, did not extend the Applicant’s time limit to contest its content or the potentially related non-renewal of his contract. The Tribunal finds that the Applicant did not contest his PER within the imparted time limits. The Respondent submits that the Applicant did not contest his PER within the imparted time limits. The Applicant contends his application is receivable as he only became aware that his non-renewal was prejudiced and biased upon receiving a copy of his PER on 24 August 2009, a year after his separation from service, followed by the receipt on 15 June 2010 OIA investigation report that was referred to therein.

Decision Contested or Judgment/Order Appealed

The Applicant contests the content of his Performance Evaluation Report (“PER”); UNICEF’s failure to complete a PER during his appointment, their failure to adhere to ST/AI/2002/3 (Performance Appraisal System) and the effect these failures had on the non-renewal of his contract.

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Samuel-Thambiah

Entity

UNICEF

Case Number(s)

UNDT/NY/2010/095

Tribunal

UNDT

Registry

New York

Date of Judgement

4 Mar 2013

Duty Judge

Judge Greceanu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Applicable Law

Administrative Instructions

- ST/AI/2002/3

UNDT Statute

- Article 8.1

Related Judgments and Orders

UNDT/2009/051

UNDT/2010/159

UNDT/2011/102

UNDT/2012/123

2010-UNAT-061

2011-UNAT-179