

# **UNDT/2013/084, Hunt-Matthes**

## **UNAT Held or UNDT Pronouncements**

**Performance Evaluation:** The career management system is a system that required mutuality and cooperation from both the supervisor and a staff member. The processing of the Applicant's PAR was unlawful. It was completed in haste and in hindsight once a decision not to renew her contract was made. The finalisation of the PAR without any input from the Applicant was a serious breach of her right due process. The PAR had not been completed either at the time of the contested decision or the expiry of the Applicant's FTA and the Administration proceeded with its decision not to renew the Applicant's contract although she had referred her PAR for Rebuttal.

**Acts of retaliation/reprisal:** An allegation of retaliation can be difficult to evaluate especially when seemingly rational administrative arguments are used to justify seemingly rational administrative decisions. The Applicant's mid-term assessment was unilaterally prepared by her supervisor after she had raised allegations of misconduct by UNHCR senior officials and criticized the IGO internal procedures. The Administration chose to mischaracterise the Applicant's allegations as poor performance rather than to properly investigate them or refer them to OIOS.

**Implementation of a decision:** Whether a decision has a legal consequence or a direct impact on the terms of appointment of a staff member is largely a question of fact.

**Costs:** The Tribunal may only award costs if it finds that there has been a manifest abuse of proceedings. The Respondent's failure to make appropriate concessions of procedural breaches at an early stage is a manifest abuse of the proceedings. This failure added to the Applicant's legal costs.

The Applicant was awarded financial compensation, including moral damages and legal costs.

Accountability referral: the Tribunal found that the evidence in this case revealed one serious matter that must be brought to the attention of the Secretary-General pursuant to art. 10.8 of its Statute for possible action to enforce accountability: the attempt to interfere in the Applicant's rebuttal process by the Executive Office of UNHCR, the UNHCR Department of Human Resources Management, and the UNHCR Legal Affairs Unit. However, the Tribunal noted that no individuals were identified who can be held responsible for this.

## Decision Contested or Judgment/Order Appealed

The Applicant is a former Investigation Officer with the Inspector General's Office ("IGO") of the United Nations High Commissioner for Refugees ("UNHCR"). She filed an appeal with the former United Nations Administrative Tribunal contesting the decision of UNHCR not to renew her contract based on unsatisfactory performance.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Hunt-Matthes

## Entity

UNHCR

## Case Number(s)

UNDT/NBI/2010/053

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

28 May 2013

## Duty Judge

Judge Shaw

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Abuse of process before UNDT/UNAT

Costs

Disciplinary matters / misconduct

Performance management

Performance evaluation

Separation from service

Referral for accountability

## Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNHCR IOM/31/2000-FOM/32/2000

- UNHCR IOM/54/97-FOM/61/97
- UNHCR IOM/65/2003-FOM/65/2003

#### Secretary-General's bulletins

- ST/SGB/2009/11

#### UNDT Statute

- Article 10.5(a)

#### UNRWA DT Statute

- Article 10.8

## Related Judgments and Orders

UNDT/2011/063

UNDT/2011/064

UNDT/2012/092

2012-UNAT-238