

UNDT/2014/057, Staedtler

UNAT Held or UNDT Pronouncements

The decision not to renew his contract was not an administrative decision “stem[ming] from [this] performance appraisal”. The Tribunal holds that the Applicant had no right of appeal against the 2011-2012 e-PAS. That claim is therefore not receivable. Finally, in his claim relating to this performance evaluation the Applicant also challenges the MEU decision that the issue of the Second Reporting Officer’s comments in the Applicant’s e-PAS was time barred. This part of his claim is not receivable as MEU decisions are not reviewable by this Tribunal. It is not within the powers of the Tribunal to express its view as to whether or not there had been retaliation as sought by the Applicant. It is settled law that a decision is considered final when the Organisation decides to take a particular course of action which has direct legal consequences on the rights and obligations of a staff member as an individual. Timelines stipulated in article 7.1(a) of the UNDT Rules of Procedure and article 8.1(d)(i) of the Statute must be strictly observed. The legal obligations of the Ethics Office set out in ST/SGB/2005/21 arise upon the receipt of a report of retaliation.

Decision Contested or Judgment/Order Appealed

The Applicant made claims relating to his performance evaluation and an Ethics Office finding that his reports were not a protected act pursuant to ST/SGB/2021, and contested the decision not to renew his contract.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Outcome Extra Text

The Applicant's claim relating to his performance evaluation for the period 2011-2012, and "the decision of the Management Evaluation that the issue of the Second Reporting Officer's comments in the Applicant's E-Pas" is not receivable. The Applicant's claim on the decision not to allow him to provide comments on his midpoint review of the cycle 2012-2013 is moot and is dismissed. The Applicant's challenge to the Ethics Office finding that his reports were not a protected act pursuant to ST/SGB/2005/21 is dismissed. The Applicant's claim in respect of UN-Habitat's decision not to renew his fixed-term contract beyond 31 December 2012 is not receivable.

Full judgment

[Full judgment](#)

Applicants/Appellants

Staedtler

Entity

UN-Habitat

Case Number(s)

UNDT/NBI/2013/21

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 May 2014

Duty Judge

Judge Shaw

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Performance management

Performance evaluation

Separation from service

Applicable Law

Administrative Instructions

- ST/AI/2010/5

Secretary-General's bulletins

- ST/SGB/2005/21

Staff Rules

- Rule 11.2 (c)

UNDT RoP

- Article 7.1(a)

UNDT Statute

- Article 2.1

- Article 8.1(d)(i)

Related Judgments and Orders

UNDT/2010/174

2010-UNAT-079

UNDT/2010/210

UNDT/2013/085

2012-UNAT-269

2012-UNAT-208

2013-UNAT-365

2012-UNAT-275