

UNDT/2014/115, Jansen

UNAT Held or UNDT Pronouncements

e was working as Project Manager on an extra-budgetary project, funded exclusively by one member state, and his FTA was limited to his post and department. The decision was based on the discontinuation of the project funding by the Donor. The initial decision had been notified to the Applicant on 13 November 2012, and he requested timely management evaluation thereof. However, upon misleading advice from the MEU, he subsequently submitted a new request for management evaluation against the second, confirmative decision not to extend his appointment beyond 31 May 2013. Thereafter, upon receipt of the MEU response to his second request for management evaluation, he filed a timely application with the Tribunal. The Tribunal found that the Applicant could, in good faith, rely on the erroneous advice received from the MEU and found that his application was receivable. It rejected the application on the merits, since the non-renewal decision was based on legitimate grounds and constituted a lawful exercise of discretion on the part of the Administration.

Decision Contested or Judgment/Order Appealed

The Applicant, a P-5 staff member at UNECE, appealed the non-renewal of his FTA beyond 31 May 2013. H

Legal Principle(s)

Confirmative decision: A decision that does only repeat the original administrative decision without additional contents or grounds, does not reset the clock for appeal. Receivability: A staff member can, in good faith, rely on the erroneous advice received from the Management Evaluation Unit (MEU). An application can be considered receivable when, in following such advice, an Applicant failed to respect the statutory time-limits. Non-renewal: An legitimate expectation for renewal can

only be created through an express promise, which has to be in writing. A non-renewal decision of a fixed-term appointment (FTA), if based on legitimate grounds supported by the evidence, constitutes a lawful exercise of discretion. The Administration does not have an obligation to place a staff member, whose FTA is limited to a specific post and department, in another department or to otherwise secure his continued employment.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Jansen

Entity

ECE

Case Number(s)

UNDT/GVA/2013/56

Tribunal

UNDT

Registry

Geneva

Date of Judgement

29 Aug 2014

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (ratione materiae)

Temporal (ratione temporis)

Non-renewal

Reason(s)

Separation from service

Applicable Law

Staff Rules

- Rule 11.4(c)

UNDT RoP

- Article 35
- Article 7.5

Related Judgments and Orders

2013-UNAT-335

2014-UNAT-406

2010-UNAT-043

2013-UNAT-385

2013-UNAT-394

2012-UNAT-271

2010-UNAT-079

2013-UNAT-331

2011-UNAT-138

2011-UNAT-153

2014-UNAT-411