

UNDT/2015/078, Liu

UNAT Held or UNDT Pronouncements

The decision was based on a restructuring exercise of the OOSA Office, Beijing, by which the Applicant's post, which was funded through contributions from the Chinese Government, was replaced by a level 4 Service Contract (SC-4 post). The Applicant claimed that this was irrelevant since her non-renewal was relating to concerns about her performance. The Applicant, whose letter of appointment was with the United Nations Development Program ("UNDP"), had requested timely management evaluation with the Management Evaluation Unit at UN Headquarters. She had, however, filed a request for management evaluation with the UNDP Administrator only three days after the 60-day time-limit to request management evaluation had expired. The Tribunal found that under the circumstances of the present case, and in light of UNDP not having publicly announced that requests for management evaluation have to be sent to the UNDP Administrator—to whom the authority to review such requests had been delegated—the application was receivable. It further found that evidence showed that the reason provided for the non-renewal was supported by the facts and that the Applicant failed to provide evidence of bias. Particularly, her argument that the decision was based on issues relating to her performance was unsubstantiated. Receivability *ratione materiae*: Staff members can only be expected to be aware about rules and procedures subject to public announcement. UNDP did not inform its staff about the proper addressee of a request for management evaluation in a sufficient manner. Indeed, the documents provided by the Respondent to show that the authority for requests for management evaluation has been delegated to the UNDP Administrator are far too general with respect to the authority of the UNDP Administrator in the administration of the regulations and rules of UNDP staff members, and do not mention the internal justice system. Moreover, the only relevant document, i. e. an interoffice memorandum on the delegation of authority, has not been published. Under such circumstances, by filing a timely request with the MEU, the application is receivable, *ratione material*. Non-renewal of FTA: An international organization has the discretionary authority to restructure some or all of its departments or units,

which includes the abolition of posts, the creation of new posts and the redeployment of staff. Where the Administration provides a reason for the non-renewal of a fixed-term appointment, such as a restructuring exercise including the abolition of the post encumbered by the Applicant, and if that reason is supported by the facts, the non-renewal is legal.

Decision Contested or Judgment/Order Appealed

The Applicant, a former Program Assistant (G-6) of the United Nations Office of Outer Space Affairs ("OOSA"), contests the non-renewal of her fixed-term appointment (FTA).

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Liu

Entity

UNDP

Case Number(s)

UNDT/GVA/2014/49

Tribunal

UNDT

Registry

Geneva

Date of Judgement

4 Sep 2015

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)

Non-renewal

Separation from service

Applicable Law

Staff Rules

- Rule 11.2

Related Judgments and Orders

UNDT/2011/005

UNDT/2011/006

UNDT/2011/052
2015-UNAT-557
2015-UNAT-495
2014-UNAT-470
2014-UNAT-402
2015-UNAT-546
2015-UNAT-521
2015-UNAT-500
2011-UNAT-153
2012-UNAT-201
2010-UNAT-021
2014-UNAT-471
2012-UNAT-236
2011-UNAT-115