

UNDT/2015/081, Toure

UNAT Held or UNDT Pronouncements

Moral damages – As held in Asariotis 2013-UNAT-309, damages for a moral injury may arise from a breach of the employee's substantive entitlements arising from his or her contract of employment and/or from a breach of the procedural due process entitlements therein guaranteed (be they specifically designated in the Staff Regulations and Rules or arising from the principles of natural justice). Where the breach is of a fundamental nature, the breach may of itself give rise to an award of moral damages, not in any punitive sense for the fact of the breach having occurred, but rather by virtue of the harm to the employee.

Decision Contested or Judgment/Order Appealed

The Applicant is a former staff member of the United Nations Economic Commission for Africa (ECA). In her Application dated 26 June 2013, she is contesting the decision dated 14 December 2012 not to renew her appointment based upon the abolition of her post and non-reassignment. The Tribunal found that the Executive Secretary of ECA had acted ultra vires when he unilaterally abolished the Applicant's post in December 2012. The Executive Secretary had neither the authority nor the discretion to abolish Regional Advisor RPTC-funded posts which were set up to implement already approved programmes for the 2012-2013 biennium without seeking and obtaining approval as provided for in regulation 6.2. The approvals obtained by the Executive Secretary from the COM in March 2013 and later from the General Assembly for a refocusing and re-prioritizing of the ECA programmes only related to the ECA's previously approved 2014-2015 biennium, not the 2012-2013 biennium that had only nine more months to come to its end.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation.

Full judgment

[Full judgment](#)

Applicants/Appellants

Toure

Entity

ECA

Case Number(s)

UNDT/NBI/2013/36

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

9 Sep 2015

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Compensation

Non-pecuniary (moral) damages

Due process

Separation from service

Applicable Law

GA Resolutions

- A/RES/594(VI)

Other UN issuances (guidelines, policies etc.)

- A/59/397 (Report of the SG to the GA)
- ECA Secretariat, Revised Strategic Framework/Biennial Programme Plan for the 2014-2015 biennium
- E/ECA/CM/46/6 (Proceedings of the Sixth Joint Annual Meetings of the Conference African Ministers of Finance, Planning and Economic Development of the ECA and the AU Conference of Ministers of Economy and Finance)
- Regular Programme for Technical Cooperation: Inter-Regional Guidelines and Principles for Effective Delivery of Capacity Development Support, 2012

Secretary-General's bulletins

- ST/SGB/2000/8

Related Judgments and Orders

2013-UNAT-309