

# UNDT/2015/122, Chalabi

## UNAT Held or UNDT Pronouncements

Consultation prior to the contested decision being taken: The Applicant alleged that he was not consulted prior to the contested decision being taken. The Tribunal was satisfied however that the Applicant had written notice of the impending decision from as early as 7 January 2013 and that from this date he engaged in extensive correspondence with the Administration about this issue. The Tribunal held that the Applicant was consulted and that such consultation met the test set out previously in Rees UNDT/2011/156, Gehr UNDT/2011/142 and Adundo et al. UNDT/2012/188 Legitimate expectation of renewal: The Applicant claimed that he had a legitimate expectation of renewal based on the narrative in UNAMI's 2014 budget proposal sent to the ABACQ and the 5th Committee and supportive correspondence from the Head of Office. The Tribunal held that while these factors may have given the Applicant some cause for hope that the status quo would be maintained in Kirkuk, neither the budget proposal nor any views expressed by the Head of Office can be interpreted as an express promise that his contract would be renewed. Ill-motivation/bad faith: The Applicant advanced six events to support his allegation of ill-motivation/bad faith on the part of UNAMI. The Tribunal held that proof of ill-motivation should include a demonstrable causal nexus between the proffered evidence of ill-motivation and the contested decision. Any evidence of ill-motivation must logically pre-date the decision. Events which occurred after the decision are generally irrelevant to the issue of the motivation of the decision maker. The Tribunal concluded that there was no link between any of the six events relied on by the Applicant as evidence of ill-motivation for the decision of 27 October 2013 sufficient to displace the presumption of regularity of the reason for the non-renewal. Thus the Applicant failed to discharge his burden of showing that the decision was not properly motivated or that it was in bad faith.

## Decision Contested or Judgment/Order Appealed

The Applicant contested a decision of the United Nations Assistance Mission for Iraq (UNAMI) to not renew his fixed-term appointment (FTA) beyond 31 December 2013.

## Legal Principle(s)

N/A

## Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Chalabi

Entity

UNAMI

Case Number(s)

UNDT/NBI/2014/17

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

31 Dec 2015

Duty Judge  
Judge Shaw  
Language of Judgment  
English  
Issuance Type  
Judgment  
Categories/Subcategories  
Due process  
Non-renewal  
Arbitrary or improper motive  
No expectancy of renewal  
Separation from service  
Applicable Law  
Staff Rules

- Rule 4.13(c)

Related Judgments and Orders  
UNDT/2011/142  
UNDT/2011/156  
2011-UNAT-122  
2014-UNAT-425  
2015-UNAT-503  
UNDT/2012/188