

# UNDT/2016/087, Mihai

## UNAT Held or UNDT Pronouncements

There was a valid offer of employment made to the Applicant, which was subsequently withdrawn. Thus, the Applicant acquired the status of an individual entitled to seek redress before the Tribunal. The act of requesting the waiver following the issuance, and acceptance, of the offer of appointment formed part of a continuum of events which should properly have led to the Applicant being appointed to the position she was sought out for. Noting that the decision not to appoint the Applicant would probably not be rescinded, the Tribunal, in the alternative, awarded her 18 months' net base salary at the P-4, step 4 level, in lieu of rescission of the impugned decision, and for loss of opportunity.

## Decision Contested or Judgment/Order Appealed

The Applicant contested MONUSCO's decision to withdraw an offer of appointment made to her.

## Legal Principle(s)

In matters of employment, a distinction is made between an actual offer and the letter of appointment setting out the terms and conditions of the employment. The offer of appointment is the first step in the employment relationship and an employer would need to know whether the offer is accepted before a formal appointment is made. The actual appointment is the "the legal act by which the Organization legally undertakes to employ a person as a staff member". That legal act is "a letter of appointment signed by the Secretary General or an official acting on his behalf".

## Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Mihai

Entity

MONUSCO

Case Number(s)

UNDT/NBI/2014/91

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

22 Jun 2016

Duty Judge

Judge Boolell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Jurisdiction / receivability (UNDT or first instance)

Staff selection (non-selection/non-promotion)

Eligibility

Applicable Law

Administrative Instructions

- ST/AI/1999/6
- ST/AI/2010/4/Rev.1

GA Resolutions

- A/RES/51/226
- A/RES/51/243
- A/RES/52/234

Staff Rules

- Rule 12.3(b)

UNDT Statute

- Article 10.5

Related Judgments and Orders

2017-UNAT-724

UNDT/2016/087