# **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There was a valid offer of employment made to the Applicant, which was subsequently withdrawn.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 Noting that the decision not to appoint the Applicant would probably not be rescinded, the Tribunal, in the alternative, awarded her 18 months' net base salary at the P-4, step 4 level, in lieu of rescission of the impugned decision, and for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