

# UNDT/2018/011, Gnassou

## UNAT Held or UNDT Pronouncements

Since a PIP was not put in place prior to the expiry of the Applicant's fixed-term appointment, she could not rely on section 10.5 of ST/AI/2010/5 for the renewal of her contract. The Administration extended the Applicant's contract several times despite her refusal to accept the offers of contract extension. These extensions were deemed contrary to a strict application of the requirements of section 4.4 of ST/AI/2013/1 and inconsistent with administrative regularity. However, MONUSCO continued to extend the Applicant's contract in the hope of persuading her to cooperate with the PIP. It was wholly within the Applicant's control whether she should cooperate by signing acceptance of the extensions granted and submit to the PIP albeit under protest but she chose to stick to her position that there were no grounds upon which her performance could have been assessed as "does not meet performance expectations" and that she should have a 12-month extension and the grant of a continuing appointment. In the circumstances, MONUSCO acted procedurally correctly in finally relying on section 4.4 of ST/AI/2013/1 to not renew the Applicant's appointment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision by MONUSCO to separate her from service prior to the completion of the rebuttal process for her 2014-2015 performance appraisal.

## Legal Principle(s)

When a performance shortcoming is identified during the performance cycle, the first and second reporting officers should proactively assist the staff member to remedy the shortcoming(s). Remedial measures may include counselling, transfer to more suitable functions, additional training and/or the institution of a time-bound

performance improvement plan (section 10.1 of ST/AI/2010/5). The contract should be extended for the duration necessary for completion of the performance improvement plan (PIP) (section 10.5 of ST/AI/2010/5). The Organization initiates a renewal of appointment by issuing a letter of renewal indicating the new expiration date and change of department, office of duty station, if any. The staff member shall be requested to sign the letter of renewal accepting the new expiration date and conditions of appointment. Failure to sign and return the letter of renewal within 14 days of receipt shall nullify any proposed renewal of appointment and the staff member's fixed-term appointment shall expire on the expiration date specified in the currently valid letter of appointment (Section 4.4 of ST/AI/2013/1).

## Outcome

Dismissed on merits

## Outcome Extra Text

The Tribunal dismissed the application after finding that it was the Applicant's steadfast refusal to sign a new extension of appointment that led to her separation from service.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Gnassou

## Entity

MONUSCO

## Case Number(s)

UNDT/NBI/2016/008

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

29 Jan 2018

## Duty Judge

Judge Meeran

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Appointment (type)

Continuing appointment

Performance management

Separation from service

## Applicable Law

Administrative Instructions

- ST/AI/2010/5
- ST/AI/2013/1

UNDT Statute

UNAT Statute

- Article 2.1(a)

## Related Judgments and Orders

2018-UNAT-866