

# **UNDT/2020/101, Laasri**

## **UNAT Held or UNDT Pronouncements**

The Tribunal found that the contested decision was unlawful based on the Respondent's admission that "although there were legitimate reasons to abolish the Applicant's post, the decision to do so, which led to the non-extension of her appointment [...] was based, in part, on flawed considerations". Therefore, the only legal issue that remained for adjudication before the Tribunal was that of remedies.

**Remedies** The Tribunal noted that the Applicant worked as an Operations Manager, at the NO-C level, in the UNICEF Morocco Country Office. She worked on a fixed-term appointment since February 2010 and the decision not to renew her contract beyond 31 May 2016 was based on the recommendations made by an independent panel to abolish her post. Although there were procedural irregularities, as conceded by the Respondent, there were, apparently, solid reasons to justify the "internationalization" of the Applicant's former post. Considering the particular circumstances of the present case and the fact that the Applicant lost the chance to have her appointment renewed for another year due to the failure of the Administration to consider whether she might have been able to fulfil the requirements of the P-3 post, the Tribunal would have awarded compensation in lieu of rescission in an amount equal to one-year's net base salary, based on the Applicant's pay on the date of the non-renewal of her fixed-term appointment, i.e., 31 May 2016. However, since this amount had already been paid by the Respondent to the Applicant as a result of her request for management evaluation, the Tribunal found that, in fact, the Respondent had already elected not to rescind the decision and paid instead a compensation in recognition of the Applicant's loss of chance in having her contract not renewed for another year. Therefore, no additional compensation was awarded.

**Moral damages** The Tribunal was of the view that moral damages must only be granted based on the evidence presented in the form of the medical certificate. Consequently, the Tribunal found adequate and proportionate to the gravity of said impact to grant the Applicant moral damages in the amount of two months' net base salary.

**Costs and legal fees** The Tribunal rejected the Applicant's request for payment of legal fees and costs as there was no evidence of

“manifest abuse of proceedings” as per art. 10.6 of the Tribunal’s Statute.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to abolish her post and consequently not to renew her contract beyond 31 May 2016.

## Legal Principle(s)

The purpose of compensation is to place a staff member in the same position he or she would have been in had the Organization complied with its contractual obligations (Warren 2010-UNAT-059). The “basic principle applicable in international courts on the question of costs is that each party shall bear its own costs”. The Tribunal can only award costs to a party if there is evidence of “a manifest abuse of proceedings”, i.e., some degree of intention to act frivolously (Bi Bea 2013-UNAT-370).

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Laasri

## Entity

UNICEF

## Case Number(s)

UNDT/GVA/2019/014

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

29 Jun 2020

## Duty Judge

Judge Bravo

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Separation from service

## Applicable Law

UNDT Statute

- Article 10.5(a)
- Article 10.5(b)
- Article 10.6

## Related Judgments and Orders

2012-UNAT-247

2010-UNAT-059

2018-UNAT-874

2017-UNAT-742

2013-UNAT-370