

# **UNDT/2021/032, Hilaire-Madsen**

## **UNAT Held or UNDT Pronouncements**

Relevant matters were ignored. The timing and circumstances of the Applicant's appraisals, sick leave taken, the nature of the four-month assignment in 2018 and the reasons for it, are relevant. These factors have been considered in coming to a determination that a proper exercise of the Respondent's discretion would have been to consider an appraisal of the Applicant's work for the four-month period in 2018. The Applicant was on sick leave for the first seven months of the year but there is no provision in the regulatory framework indicating that the appraisal for a shorter period of work during a particular year can be ignored or is not to be considered. On the contrary, after having been on sick leave to resolve issues of ill health that may have affected prior performance, it would have been reasonable to consider improvements on return from leave.

## **Decision Contested or Judgment/OrderAppealed**

The Applicant challenged the Respondent's decision to separate her from service on grounds of unsatisfactory performance.

## **Legal Principle(s)**

N/A

## **Outcome**

Judgment entered for Applicant in full or in part

## **Outcome Extra Text**

The application succeeds in part on the merits. The Respondent shall pay the Applicant a compensation for material damages in the amount of three month's net base salary.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Hilaire-Madsen

## Entity

UNFPA

## Case Number(s)

UNDT/GVA/2019/028

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

29 Mar 2021

## Duty Judge

Judge Honeywell

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Non-renewal

Reason(s)

Performance management

## Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNFPA Policy on Separation from Service

Staff Regulations

- Regulation 4.5(c)