

2012-UNAT-216, Schook

UNAT Held or UNDT Pronouncements

UNAT noted that UNDT's review of the factual situation by necessity involved consideration of issues beyond the mere fact of the non-renewal of the Appellant's contract and, thus, found no merit in the Appellant's submission that UNDT's deliberations on the issue of non-renewal took place in isolation of the facts surrounding the decision. With respect to the Appellant's contention that UNDT failed to account for the negative impact of the non-renewal of his personal and professional life, UNAT found no error in the Secretary-General's exercise of discretion to take action to address the potential negative impact of allegations on the reputation and proper functioning of the Organisation. UNAT held that the UNDT Judge considered both the reasons for the non-renewal of the contract and the circumstances surrounding the making of the decision. UNAT held that neither the failure of UNDT to address the extent to which the press conference had been sanctioned nor the failure to record in its judgment that allegations had been made against others were omissions constituted, on the part of UNDT, manifestly unreasonable decisions such as to impugn its judgment. UNAT dismissed the appeal and upheld the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew his appointment and the manner in which investigations were conducted. UNDT concluded that the non-renewal decision constituted a proper exercise of the Secretary-General's discretion.

Legal Principle(s)

Contracts of limited duration carry no expectation of renewal. When judging the validity of the Secretary-General's exercise of discretion in administrative matters, UNDT determines if the decision is legal, rational, procedurally correct, and

proportionate, and it can consider whether relevant matters have been ignored and irrelevant matters considered and examine whether the decision is absurd or perverse. It is not the role of UNDT to consider the correctness of the choice made by the Secretary-General amongst the various courses of action open to him, it is not the role of UNDT to substitute its own decision for that of the Secretary-General.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Schook

Entity

UNMIK

Case Number(s)

2011-226

Tribunal

UNAT

Registry

New York

Date of Judgement

16 Mar 2012

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Appointment of Limited Duration

Non-renewal

No expectancy of renewal

Reason(s)

Separation from service

Expiration of appointment (see also, Non-renewal)

Related Judgments and Orders

UNDT/2011/083

2011-UNAT-121

2010-UNAT-084