

2013-UNAT-298, Morsy

UNAT Held or UNDT Pronouncements

UNAT held that concern about a high-level manager's poor performance was not an improper motive or basis for the decision not to renew a fixed-term appointment. UNAT noted that it was well within the discretion of UNDT to determine the amount of compensation for moral damages to award a staff member for procedural violations in light of the unique circumstances of each case. UNAT held that the cases cited by the Appellant as examples of higher awards were neither applicable nor persuasive. UNAT held that UNDT did not err in awarding moral damages of USD 25,000. UNAT held there was no merit in the Appellant's claim for reinstatement, noting that reinstatement is a remedy that addresses a staff member's illegal separation from service. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew his appointment. UNDT found that UNFPA's decision not to renew the Applicant's fixed-term contract because of poor performance was lawful despite the UNFPA's violation of his rights during the process. UNDT determined the Applicant had suffered mental distress, humiliation and damage to his reputation and awarded compensation for moral damages in the amount of USD 25,000.

Legal Principle(s)

A fixed-term appointment does not carry any expectation of renewal or conversion to another type of appointment. Concern about a high-level manager's poor performance is not an improper motive or basis for the decision not to renew a fixed-term appointment. It is well within the discretion of UNDT to determine the amount of moral damages to award a staff member for procedural violations in light of the

unique circumstances of each case.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Morsy

Entity

UNFPA

Case Number(s)

2012-330

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Mar 2013

President Judge

Judge Chapman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Non-renewal

Reason(s)

Separation from service

Termination of appointment (see also, Termination of appointment)

Termination (of appointment)

Unsatisfactory service

Applicable Law

Former Staff Rules

- Rule 104.12(b)(ii)

Secretary-General's bulletins

- ST/SGB/2002/13

Related Judgments and Orders

UNDT/2012/043

2012-UNAT-232

2010-UNAT-021

2012-UNAT-261

2010-UNAT-061

2010-UNAT-041

2011-UNAT-153

2010-UNAT-051

2011-UNAT-134