

2013-UNAT-357, Baig et al.

UNAT Held or UNDT Pronouncements

UNAT held that the ASG/OHRM, and not the ICTY Registrar, had discretionary authority in matters of permanent appointment. UNAT held that the ASG/OHRM had failed to exercise her discretion in a lawful manner in adopting a blanket policy of denial of permanent appointments to ICTY staff members rather than affording them the individual consideration to which they were entitled. Finding that the staff members were discriminated against and the impugned decision was legally void, UNAT rescinded the impugned decisions and remanded the matter to the ASG/OHRM for consideration of retroactive conversion. The above decision by UNAT rendered the appeals of the UNDT award of 2,000 Euros moot. However, UNAT awarded the staff members compensation in the amount of 3,000 Euros each for moral damages.

Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicants contested the decisions not to grant them a permanent appointment. UNDT held that the authority to appoint staff, which was expressly delegated to the International Criminal Tribunal for the former Yugoslavia (ICTY) Registrar, included the authority to grant permanent appointments. Accordingly, UNDT held that the Assistant Secretary-General for Human Resources Management (ASG/OHRM) was not the competent decision-maker to determine the granting of permanent contracts to ICTY staff members and, thus, the contested decisions were tainted by a substantive procedural flaw. UNDT ordered rescission of the decisions not to grant the Applicants permanent appointments, noting that the rescission of the decisions does not mean that they should have been granted permanent appointments, but that a new conversion procedure should be carried out. UNDT further ordered an award of in-lieu compensation in the amount of 2,000 Euros.

Legal Principle(s)

In matters of delegation of authority, the legal instrument delegating authority must be read carefully and restrictively. Staff members are entitled to individual, full and fair consideration of their suitability for conversion to permanent appointment.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Baig et al.

Entity

ICTY

Case Number(s)

2012-383

2012-394

2012-395

2012-396

2012-397

2012-398

2012-399

2012-400

2012-401

2012-402

2012-403

2012-404

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2013

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Permanent appointment

Staff selection (non-selection/non-promotion)

Applicable Law

Former Staff Rules

- Rule 104.12(b)
- Rule 104.13

Secretary-General's bulletins

- ST/SGB/2009/10

Related Judgments and Orders

UNDT/2012/129

2013-UNAT-346
2013-UNAT-309
2013-UNAT-340
2012-UNAT-242
2011-UNAT-110