

2016-UNAT-637, Maslei

UNAT Held or UNDT Pronouncements

UNAT considered the appeal by the Secretary-General challenging the amount of the award of compensation for moral damages. UNAT held that the award of moral damages was supported by the evidence before UNDT and that the amount was not excessive based on that evidence. UNAT rejected the Secretary-General's argument that the award in the present case should be compared with awards in similar non-renewal cases. UNAT held that UNDT had not committed any error in its assessment of the award of moral damages and that the Secretary-General had not established any ground which would justify UNAT's interference. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew her contract beyond December 31, 2013, on the grounds of unsatisfactory service, although her Standard Assignment Length (SAL) had been extended until December 31, 2014. UNDT found that the decision not to renew the Applicant's appointment based on performance-related reasons was unlawful because the Administration had not followed the UNHCR's policies on performance management. UNDT held that the extension of the SAL had given the Applicant a legitimate expectation that her one-year fixed-term appointment would be renewed until 31 December 2014. UNDT ordered the rescission of the non-renewal decision and, as an alternative to the rescission, the payment of compensation in lieu. UNDT additionally awarded the Applicant six months' net base salary compensation for moral damage for the medical harm caused to her as a result of the decision not to renew her contract.

Legal Principle(s)

The criterion for an award of moral damages is the degree of injury suffered by the individual staff member as a result of the unlawful decision. That the type of unlawful decision is the same as in several other cases does not establish that the degree of moral damage must be similar in each case. The assessment of an award of moral damages is made on a case-by-case basis according to the discretion of the Tribunal.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Maslei

Entity

UNHCR

Case Number(s)

2015-846

Tribunal

UNAT

Registry

New York

Date of Judgement

24 Mar 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Non-renewal

Reason(s)

Related Judgments and Orders

UNDT/2015/041

2010-UNAT-044

2014-UNAT-429

2012-UNAT-219

2015-UNAT-587

2013-UNAT-298