

2016-UNAT-678, Khalaf

UNAT Held or UNDT Pronouncements

UNAT preliminarily denied the request for an oral argument and then considered the merits of the appeal. UNAT found that the requirements of Article 2(1) of the UNAT Statute were not fulfilled in the Appellant's case as UNDT did not commit an error of fact, resulting in a manifestly unreasonable decision. UNAT noted that the evidence showed that the Administration was involved in a process of revision of activities in Iraq, rationalizing of staff, realignment of functions, and reduction of budget. These administrative activities led to the redeployment of the post encumbered by the Appellant from Kirkuk to Baghdad. UNAT also noted that the Appellant never expressed his willingness to accept a similar appointment in Baghdad and he did not participate in the written assessment to remain in Kirkuk. Moreover, The United Nations Assistance Mission for Iraq (UNAMI) advertised three job openings for Associate Political Affairs Officer positions at the NPO-A level in Baghdad and the Appellant did not apply to any of them. UNAT held that there was no evidence that the 2014 budget proposal or communications with UNAMI management throughout 2012 and 2013 gave rise to a legitimate expectation of renewal in the Appellant's case. UNAT shared UNDT's view that the contested decision was not ill-motivated or taken in bad faith and found no fault with its decision. UNAT accordingly dismissed the appeal in its entirety and affirmed UNDT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew his fixed-term appointment beyond 31 December 2013. UNDT found that the Applicant had been adequately consulted prior to the contested decision being taken and that the Applicant had not provided sufficient evidence to displace the presumption of regularity of the non-renewal decision. UNDT dismissed the application.

Legal Principle(s)

Non-expectancy of renewal can be challenged if the evidence is produced leading to the conclusion that an express and concrete decision, promise, or commitment of renewal was communicated to a staff member.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Khalaf

Entity

UNAMI

Case Number(s)

2016-904

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jun 2016

President Judge

Judge Simón

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Fixed-term appointment

Non-renewal

Reassignment or transfer

Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2015/123