

2018-UNAT-866, Gnassou

UNAT Held or UNDT Pronouncements

UNAT considered whether UNDT erred in concluding that the decision not to renew the Appellant's appointment and to separate her from service on the basis that she failed to sign the letters of appointment containing the extensions of her fixed-term appointment was lawful. UNAT noted that when a performance shortcoming is identified, remedial actions may be put in place and if the shortcoming is not rectified, a PIP shall be prepared. UNAT further noted that, in the absence of any explicit provision establishing otherwise, the rebuttal process does not have the effect of suspending the implementation of the PIP, although the PIP may be modified as a result of the conclusions and/or recommendations of the report of the rebuttal panel. This means that the Appellant had to sign the offer of renewal as a precondition for her appointment to continue. UNAT found that since the Appellant refused to sign the letters of appointment containing the extension of her fixed-term appointment, there was no longer a contract in effect. UNAT held that UNDT correctly found that the Appellant was now estopped from contesting any possible consequence deriving from such non-extension and that the Appellant failed to show any reversible error in UNDT's finding that her separation was justifiable. UNAT found no merit in the Appellant's contention and accordingly dismissed the appeal and affirmed UNDT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the decision by MONUSCO to separate her from service prior to the completion of the rebuttal process of her 2014-2015 performance appraisal. UNDT rejected the Applicant's contention that her contract should have been extended for the duration of the rebuttal process. UNDT concluded that MONUSCO continued to extend the Applicant's appointment and that the Applicant's "steadfast refusal, despite several attempts at persuasion by MONUSCO HR to sign the acceptance of the new extension of appointment" "was the activating cause of the non-renewal of her contract" and that the Administration acted procedurally correct in not renewing her appointment. UNDT dismissed the Applicant's application.

Legal Principle(s)

When a performance shortcoming is identified, remedial actions may be put in place, such as counseling, transfer to more suitable functions or additional training. If the performance shortcoming is not rectified following these remedial actions, a PIP shall be prepared. Moreover, in the absence of any explicit provision establishing otherwise, the rebuttal process does not have the effect of suspending the implementation of the PIP, although the PIP may be modified as a result of the conclusions and/or recommendations of the report of the rebuttal panel.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Gnassou

Entity

MONUSCO

Case Number(s)

2018-1156

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Oct 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

No expectancy of renewal

Performance management

Rebuttal

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

Administrative Instructions

- ST/AI/2010/5/Section 4
- ST/AI/2010/5/Section 7
- ST/AI/2013/1/Corr. 1

Staff Regulations

- Regulation 4.5

Staff Rules

- Rule 4.5
- Rule 9.4

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2018/011

2018-UNAT-865