

# 2020-UNAT-981, Nouinou

## UNAT Held or UNDT Pronouncements

As a first preliminary matter, UNAT considered a motion requesting confidentiality in which the Appellant sought to limit the disclosure of personal information relating to her citizenship and immigration status. UNAT held that the personal data was not pertinent to the case, disclosure of the information would not have taken place without the Appellant's own motions and UNAT would not have asked her to disclose such information. UNAT denied the motion. As a second preliminary matter, UNAT considered a motion to respond to the Respondent's observations on a motion. UNAT held that its RoP did not provide for such responses and denied the motion. As a third preliminary matter, UNAT considered a motion to exclude judges from the present appeal for reasons of conflict of interest. UNAT held that this motion, which contained serious accusations against UNAT judges and was without any support, was derogatory, baseless and abusive and in violation of the Code of Conduct for Legal Representative and Litigants. UNAT held that the motion provided no rational or coherent basis for concluding that there could be a conflict of interest and denied the motion. On the merits, UNAT held that UNDT correctly concluded that the Appellant's appeal was not receivable because (1) it was time-barred and (2) the selection for a temporary job was not an appealable decision because it did not have any adverse legal consequences for the Appellant. UNAT held that the Appellant's claim about her terms of employment and issues about her performance appraisal were not receivable. UNAT held that UNDT did not err in deciding that the appeal of the selection for a temporary job and the claim about the terms of employment were not receivable and therefore it was unnecessary to remand the case for additional fact-finding. UNAT held that UNDT correctly decided that the Appellant did not have a legitimate expectation of renewal of appointment. UNAT held that UNDT did not err in considering that the Appellant did not substantiate the unlawfulness of the non-renewal and therefore it was unnecessary to remand the case for additional fact-finding. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the non-renewal of her six-month temporary appointment. UNDT concluded that her application was not receivable for the following reasons: (1) it was time-barred and (2) it did not concern an appealable decision in the sense that the Applicant did not suffer any harm from the decision. UNDT held that the aspects of her claims concerning her performance appraisal were not receivable. UNDT was satisfied that the Applicant did not have any legitimate expectation of renewal, that the reasons for the non-renewal of her temporary appointment were credible and lawful, and that there was no impropriety in the selection of a rostered candidate for the position, which the Applicant occupied temporarily. UNDT rejected her application.

## Legal Principle(s)

Case management issues, including the question of whether to call a certain person to testify or to order the production of documents, remain within the discretion of UNDT and do not merit a reversal except in clear cases of denial of due process of law affecting the right to produce evidence by a party. If based on valid reasons and in compliance with procedural requirements, the non-renewal of a fixed-term appointment, including a temporary appointment, is lawful unless the Administration abused its discretion or was motivated by discriminatory or improper grounds. The burden is on the staff member to show a legitimate expectancy of renewal or that the non-renewal of his or her fixed-term appointment was arbitrary or motivated by bias, prejudice or improper motive against the staff member.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Nouinou

Entity

UNOCT

Case Number(s)

2019-1279

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Mar 2020

President Judge

Judge Neven

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Abusive conduct

Appointment (type)

Temporary appointment

Judges

Conflict of interest

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Management Evaluation

Non-renewal

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/4

Other UN issuances (guidelines, policies etc.)

- Code of Conduct for Legal Representatives and Litigants

Staff Regulations

- Regulation 4.5(b)

Staff Rules

- Rule 4.12

UNAT RoP

- Article 22

## UNAT Statute

- Article 2.1

## Related Judgments and Orders

UNDT/2019/073

2014-UNAT-416

2014-UNAT-468

2011-UNAT-184

2012-UNAT-201

2011-UNAT-153

2014-UNAT-411

2018-UNAT-849

2015-UNAT-580

2012-UNAT-261

2013-UNAT-311

2017-UNAT-721

2017-UNAT-780

2018-UNAT-875

2017-UNAT-806

2014-UNAT-466

2010-UNAT-062

2011-UNAT-110

2016-UNAT-668