

# UNDT/2022/125, Mollaoglu

## UNAT Held or UNDT Pronouncements

The underlying reason behind the Applicant's FTA not being renewed was the fact that he could not obtain a visa to join his duty station. In the case at hand, the Applicant was not able to demonstrate that the decision not to renew his FTA beyond its expiration date was illegal, arbitrary or tainted by ulterior motives. As per the legal framework, an FTA does not carry any expectancy, legal or otherwise, of renewal, and shall expire automatically and without prior notice on the expiration date specified in the letter of appointment. In addition, obtaining a visa was, indeed, a condition sine qua non for the Applicant's employment with the Organization, as provided in the Applicant's letter of offer. Furthermore, the reasons for the host country to refuse to issue a visa for the Applicant were of a personal nature and unrelated to the Applicant's position with the Organization, and the Applicant has not provided any evidence that he was promised an extension of his contract beyond its expiry date. Consequently, the Tribunal concluded that the Organization cannot replace the host country in this regard and, therefore, cannot be held accountable for the refusal of the host country to issue a visa to the Applicant. The subsequent decision to not extend the Applicant's FTA beyond its expiry date was, therefore, lawful. Finally, in relation to the Applicant's claim that the Organization breached its duty of care, the Tribunal also found it meritless. Given the host country's firm position of not granting a visa to the Applicant, the Organization's decision to not renew or extend his FTA was well within its rights and discretionary authority. In addition, by allowing the Applicant to complete his FTA through teleworking from outside the duty station, the Organization did in fact fulfilled its duty of care towards the Applicant. In relation to the possibility of reassignment, the Organization was under no obligation to secure the Applicant another position at a different duty station. While specific conditions may have allowed for different staff members in similar situations to benefit from reassignment, as alleged by the Applicant, that does not mean that the Organization had an obligation to reassign him. Indeed, the evidence on record shows that the Organization did all it could to assist the Applicant and cannot be held accountable for a situation that was beyond its control.

## Decision Contested or Judgment/Order Appealed

The Applicant contests the decision not to extend his fixed-term appointment ("FTA") beyond its expiry date.

## Legal Principle(s)

As a general principle of administrative law, a staff member bears the burden of proving that the contested administrative decision was illegal, arbitrary or tainted by ulterior motives.

## Outcome

Appeal dismissed on merits

Outcome Extra Text

## Full judgment

[Full judgment](#)

Applicants/Appellants

Mollaoglu

Entity

UNODC

Case Number(s)

UNDT/GVA/2021/39

Tribunal  
UNDT  
Registry  
Geneva  
Date of Judgement  
30 Nov 2022  
Duty Judge  
Judge Bravo  
Language of Judgment  
English  
Issuance Type  
Judgment  
Categories/Subcategories  
No expectancy of renewal  
Non-renewal  
Applicable Law  
Staff Regulations

- Regulation 4.5(c)

Staff Rules

- Rule 4.13
- Rule 9.4

UNDT Statute

- Article 8.1

Related Judgments and Orders

2010-UNAT-081  
2011-UNAT-178  
2018-UNAT-849  
2022-UNAT-1225  
2014-UNAT-433  
2014-UNAT-450  
2015-UNAT-592  
2010-UNAT-084