



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.:	UNDT/NBI/2025/048
Judgment No.:	UNDT/2025/106
Date:	4 December 2025
Original:	English

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**Before:** Judge Sean Wallace

**Registry:** Nairobi

**Registrar:** Wanda L. Carter

MUSAMBAI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Aleksandra Gjorgieska, HRLU/UNOG

## **Introduction**

1. The Applicant, a former Team Assistant working with the United Nations Office on Drugs and Crime, Regional Office for Eastern Africa (“UNODC/ROEA”), filed an application contesting a decision not to renew his contract beyond 6 January 2025.
2. The Respondent filed a reply on 10 June 2025, and the Applicant filed a rejoinder the same day.
3. The parties have filed their closing submissions, so the case is ripe for adjudication.

## **Facts and submissions**

4. On 3 March 2016, the Applicant joined UNODC/ROEA, based in Nairobi. The Applicant joined on a temporary appointment as a Team Assistant at the G-4 level. Effective 2 March 2018, his position was converted to a fixed term appointment (“FTA”).
5. On 30 November 2022, the Applicant received a notification from Administration that his contract would not be renewed beyond 31 December 2022 due to lack of funding.
6. Upon receipt of the notification, the Applicant requested to go on Special Leave without Pay (“SLWOP”) until funding was secured to maintain continuity of service. This request was approved.
7. The Applicant returned to work on 1 April 2023.
8. On 12 July 2023, the Applicant was informed by the Administration that, following a report of possible fraud on his part, a fact-finding panel was appointed to investigate the matter pursuant to ST/AI/2017/1 (Unsatisfactory conduct, investigations and the disciplinary process). Both the Applicant and the Respondent agree that the investigation is still ongoing.

9. The Applicant states that in early 2024, he was moved from the procurement department to the Transnational Organised Crime (“TOC”) pillar where he was assigned the Umoja role as Human Resources Administrator for consultants, a role he had not performed before. He further claims that at TOC, he was marginalised, isolated and unable to discuss work expectations with the Head of TOC. In his view, he was being treated as guilty of misconduct even though the investigation was pending.

10. On 28 November 2024, UNODC/ROEA, notified the Applicant of the decision not to extend his FTA beyond 31 December 2024, due to a funding shortage. (the contested decision). UNOCD/ROEA wrote, in part:

As you know, three major grants within TOC will come to an end on 31 December 2024 and one additional one in February 2025, thus we are facing a funding shortage.

As a result, there is no funding, and we are therefore not in a position to extend your contract beyond its expiration date of 31 December 2024...

11. The Applicant was briefly extended due to a pending request for suspension of action, and he formally separated from the Organization on 6 January 2025. He subsequently filed the instant application.

12. The Applicant’s case is that the reason given for the non-renewal of his FTA, the ending of four grants, is not supported by facts and therefore, is not valid. He also argues that there is lack of transparency surrounding the non-renewal of his appointment.

13. The Respondent argues, *inter alia*, that the contested decision is a lawful exercise of administrative discretion and fully compliant with the applicable legal framework. Lack of funding is a valid reason for the non-renewal of a fixed-term appointment, and facts support the lack of funding for the Applicant’s post.

## Consideration

14. A fixed-term appointment does not carry any expectancy of renewal and expires automatically without prior notice on the expiration date pursuant to staff regulation 4.5(c), and staff rules 4.13(c) and 9.4.

15. The Administration is, nevertheless, required to provide a reason for such a non-renewal. The United Nations Appeals Tribunal (“UNAT”) held in *Islam* 2011-UNAT-115, that “when a justification is given by the Administration for the exercise of its discretion, it must be supported by the facts.” *Islam, ibid* paras. 29-32; *Obdeijn* 2012-UNAT-201 paras. 33-39; and *Pirnea* 2013-UNAT-311 paras. 33-34.

16. In *Nouinou* 2019-UNAT-902, para. 47, the Appeals Tribunal held that:

[...] An administrative decision not to renew a fixed-term appointment can be challenged on the grounds that the Administration has not acted fairly, justly or transparently with the staff member or was motivated by bias, prejudice or improper motive. The staff member has the burden of proving such factors played a role in the administrative decision.).

17. Similarly, in *Ahmed* 2011-UNAT-153, para. 47, the Appeals Tribunal opined:

[U]nless the Administration has made an “express promise ... that gives a staff member an expectancy that his or her appointment will be extended”, or unless it abused its discretion, or was motivated by discriminatory or improper grounds in not extending the appointment, the non-renewal of a staff member’s fixed-term appointment is not unlawful.

18. The Applicant acknowledges this legal framework and jurisprudence.

*Was the reason given for the non-renewal decision factually supported?*

19. As recounted above, the Administration told the Applicant that his appointment would not be renewed because of a lack of funding. The Applicant argues that this reason lacks factual support.

20. The Tribunal notes that the undisputed evidence shows that, at the time the Applicant’s FTA was due to end, the TOC Pillar was facing the expiration of three

grants on 31 December 2024 (grants 05757 XEAW12, 05205 XEAW12, and 05360 XEAW12); and the expiration of another grant on 28 February 2025 (grant 05365 XEAW10).

21. It is not contested that the Applicant's FTA was funded from grant 05757 XEAW12 at the time of the contested decision. Thus, his appointment expired at the same time as the single source of funding for this appointment (and two other grants in the TOC Pillar).

22. The Applicant does not provide any evidence of funding from another source that could have funded his post. Accordingly, having carefully reviewed the record, the Tribunal concludes that the Administration's stated reason for the non-renewal decision was supported by facts.

23. The Applicant argues that about eight staff members are still receiving salaries from XEAU/BMMP. He states:

Although the notice for non-renewal mentions that 4 in number grants are going to end, there is no other staff who is being separated, except for [him] who is at G4 level. It is puzzling that ending of 4 grants results in only one staff member losing his job. Moreover, with the GPML grant still continuing, it begs the question as to why [his] G-4 level salary could not have been accommodated.... His work continues despite the grants ending as there are other grants and projects that continue. Even the other Admin[istrative] Assistants in his section continue who are at higher levels than he is and paid from the same grants.

24. The Respondent says that the Applicant's tasks were absorbed by higher ranking colleagues. Thus, it would not be feasible to terminate any of those staff members and assign their higher-level functions to the Applicant because doing so would require a competitive selection for a promotion and appropriate remuneration.

25. Regarding this argument, it is well settled jurisprudence that international organizations have the power to "restructure some or all of its departments or units, including the abolition of posts, the creation of new posts and the redeployment of

staff.” *Hassanin*, 2017-UNAT-759; *Matadi*, 2015-UNAT-592; and *Bali* 2014-UNAT-450.

26. In view of the above, the Tribunal agrees with the Respondent that the Administration has discretion to decide which contracts to expire when a funding shortage occurs. Further, the Administration has the power to re-assign tasks to the remaining colleagues to ensure continuity of the Office’s work. The Tribunal, therefore, finds that the Applicant has failed to show any unlawfulness in this exercise of discretion.

*Did the decision result from ulterior motives?*

27. The Applicant alleges work-related issues that he interprets to mean that the contested decision was tainted by ulterior motives. Specifically, he says that he “was treated as guilty of misconduct even though the investigation was pending.” As examples he points to his being assigned new Umoja roles that he had not had before, and his perceived marginalization and isolation at TOC.

28. Under the jurisprudence of the Tribunal, if the applicant claims that the decision was ill-motivated or based on improper motives, the Applicant bears the burden of proving any of such allegations. *Azzouni* 2010-UNAT-081, para. 35; *Obdeijn* 2012-UNAT-201, para. 38; *Nwuke* 2015-UNAT-506, para. 49; *Hepworth* 2015-UNAT-503, para. 25; *Farhadi* 2022-UNAT-1203 para. 43; *Hossain* 2023-UNAT-1359, paras. 55 and 75; and *Turk* 2023-UNAT-1395 paras. 66 and 85.

29. The Applicant says that he was moved from the procurement department following an accusation of fraud and the resulting investigation. This meant that he was assigned a role that he did not have previously. However, it is self-evident that this move was reasonable under the circumstances. It is not proof of ill motives.

30. Regarding his perceived isolation, the Applicant alleges that “some colleagues...were advised not to interact with him since he was dubbed as a ‘bad influence’.” However, he provides no proof to support this allegation.

31. The Applicant also alleges that “his various attempts to meet the Head of TOC...for discussion on work expectations were frustrated.” The only evidence he provides to support this allegation is an email chain with the TOC Head on 4 December 2024 requesting a meeting to discuss the non-renewal decision. This is inadequate evidence of ill motives for several reasons. First, within minutes of the Applicant’s request, the Head of TOC responded saying “Yes, of course, I am happy to meet. How about 11 am on Friday?” [which would have been the first day that the Applicant said he was available] Second, his meeting request relates to (and post-dates) the contested decision, not work expectations. So it does not evidence ill motives to make the decision. Third, although the Applicant’s email says, “I know we have set meetings in the past but have been unsuccessful to meet”, there is no explanation for why those prior meeting dates had failed. Thus, there is no evidence that the TOC Head was avoiding him.

32. In sum, the Tribunal finds that the Applicant has failed to meet his burden of proving that the non-renewal decision resulted from improper motives.

33. In view of the foregoing, and having carefully reviewed the record, the Tribunal concludes that the Applicant has not met his burden of proof to establish that the contested decision was unlawful and, thus the application lacks merit.

### **Conclusion**

34. In light of the foregoing, the Tribunal affirms the contested decision and denies the application in its entirety.

*(Signed)*

Judge Sean Wallace

Dated this 4<sup>th</sup> day of December 2025

Entered in the Register on this 4<sup>th</sup> day of December 2025

*(Signed)*

Wanda L. Carter, Registrar, Nairobi