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Case No.: UNDT/GVA/2011/014

Judgment No.: UNDT/2011/150

Date: 25 August 2011



7. On 21 December 2010, the Chief of TPB wrote to the Applicant, stating her intention to further extend his appointment, though she explained that she could not at that stage confirm the duration of the proposed extension.

8. By an email of 12 January 2011 from the Officer-in-

bulletin ST/SGB/1997/1 (Procedures for the promulga

e. The decision to extend the Applicant's appointment for only 11 months is based on improper motives and tainted with arbitrariness. The



h. A renewal of the Applicant's appointment until 31 December 2012 was not possible because, unlike other UNODC staff members, the funding of his post originated from an extra-budgetary source, whose availability was only confirmed until 31 December 2011. Besides, out of





22. It further notes that sections 2.5 and 8.2 of the Secretary-General's bulletin ST/SGB/2004/6 of 15 March 2004 (Organization of the United Nations Office on Drugs and Crime) state:

2.5. The Office is headed by an Executive Director, at the Under-Secretary-General level, who also serves as the Director-General of the United Nations Office at Vienna. The Executive Director and the officials in charge of each organizational unit, in addition to the specific functions set out in the present bulletin, perform the general functions applicable to their positions, as set out in Secretary-General's bulletin ST/SGB/1997/5.

...

8.2 The core functions of the Division [for Management] are as follows:

...

(d) Developing and overseeing the implementation of human resources policies and managing the human resources of the United Nations Secretariat entities in Vienna, including policy direction, guidance, supervision and implementation of personnel policies;

23. In addition, the Secretary-General's bulletin ST/SGB/1997/5 of 12 September 1997 (Organization of the Secretariat of the United Nations), to which section 2.5 of ST/SGB/2004/6 refers, states:

Section 5

Heads of departments/offices

The functions of a head of department/office or other major organizational unit are as follows:

...

(e) Carrying out management activities or making managerial decisions to ensure the effective, efficient and economic operation of the programme concerned, including appropriate arrangements for programme performance monitoring and for evaluation;

...

Section 7

Executive offices/administrative units

An executive office/administrative unit assists the head of the department/office, and programme managers and staff members, in carrying out the financial, personnel and general administrative responsibilities delegated by the Under-Secretary-General for Management, including the following:



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34. In addition, the “Message of the day” issued on 18 August 2008, whose purpose is “to clarify the decision of the Director, Division for Management, regarding the alignment of contract dates to 31 December, and the duration of contract extensions”, provides:

Fixed-term appointments ... expiring after Friday, 31 October 2008 may be recommended for renewals through to Friday, 31 December 2010. Please note that both are maximal rather than normal extensions and subject to funding availability and satisfactory performance.

35. The Applicant’s initial fixed-term appointment under the 100 series of the Staff Rules expired on 31 October 2008 and was extended for one year, from 1 November 2008 to 31 October 2009. It was then extended twice, for three months from 1 November 2009, and for further 12 months from 1 February 2010. With effect from 1 February 2011, the Applicant’s appointment was extended for 11 months.

36. It follows from the “Messages of the day” that the Applicant’s appointment extension should have been subject to the alignment policy as early as 1 November 2008, unless the funding of his post did not allow so. The Respondent contends that, because there was a change in the funding source of the Applicant’s post, the alignment policy could not then be applied to him.

37. Even assuming that the Applicant could have benefited from the application of the alignment policy as from 1 Novem

39.