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Case No.: UNDT/NY/2010/102  
Judgment No.: UNDT/2013/078  
Date: 17 May 2013

## **Introduction**

1. In her application dated 9 December 2010, the Applicant challenged the administrative decision dated 30 June 2010 of the United Nations Children's Fund ("UNICEF") not to renew her fixed-term contract beyond 31 July 2010. The Applicant contended that she was not provided a proper reason for her non-renewal.

2. Following the filing of the Respondent's reply, and further pleadings by order of the Tribunal, the question of liability was decided on the papers upon agreement by the parties. On 28 February 2013, the Tribunal issued Judgment No. UNDT/2013/039 in which it found that the Applicant's claim succeeded in that the Respondent had been unable "to justify in law or on the facts the reason given for the non-renewal of the Applicant's fixed-term appointment".

3. On 14 May 2013, the Respondent filed and served a motion informing the Tribunal that, whilst not conceding the merits of an appeal, due to particular prevailing circumstances in this case, the parties had settled the issue of relief, and that the case should be formally closed upon confirmation by the Applicant of such settlement.

4. By motion dated 14 May 2013, the Applicant informed the Tribunal that, the parties had reached a settlement on relief and signed an agreement on 6 May 2013. The outstanding issue of relief having been satisfied, the Applicant requested that "all other proceedings and claims relating to this case be closed".



7. In this instance, the merits of the case were disposed of in favour of the Applicant by Judgment No. UNDT/2013/039, the only remaining issue for determination was the relief to be granted to the Applicant. The Respondent apparently wishes to place on record that, ordinarily, the aforesaid judgment would have triggered an appeal, but a settlement was entered into because of current personal circumstances pertaining to this case. Once a matter has been determined with finality on all the issues, parties should not be able to re-litigate the same issues. An issue, broadly speaking, is a matter of fact or question of law in a dispute between two or more parties which a court is called upon to decide and pronounce itself on in its judgment.

8. The Tribunal finds that the aforesaid request by the Applicant is an unequivocal withdrawal with informed consent, premised on a full and final signed agreement of settlement of any claims whatsoever and howsoever pertaining to the remaining issue of relief, without liberty to reinstate or appeal. The Tribunal also understands that by settling the outstanding issue of relief, on “humanitarian grounds”, the Respondent waives the right to appeal liability in this particular case, as it is the firm intention of both parties to put this matter to final rest.

9. The Tribunal is satisfied that the parties have amicably resolved the outstanding issue of relief for confidential reasons that are best known and kept to the parties, and commends Counsel for their efforts in resolving the case amicably.

### **Conclusion**

1. The merits having already been decided, the Applicant has withdrawn the remaining issues of the dispute in finality due to the settlement agreement between

the parties. There no longer being any determination to make, this case is closed without liberty for either party to reinstate or appeal.

*(Signed)*

Judge Ebrahim- Carstens

Dated this 17<sup>th</sup> day of May 2013

Entered in the Register on this 17<sup>th</sup> day of May 2013

*(Signed)*

Hafida Lahiouel, Registrar, New York