
UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Liu

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

JUDGMENT

Before:	Judge Richard Lussick, Presiding Judge Inés Weinberg de Roca Judge Luis María Simón
Case No.:	2015-869
Date:	30 June 2016
Registrar:	Weicheng Lin

JUDGE RICHARD LUSSICK, PRESIDING .

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Ms. Jing Liu against Judgment No. UNDT/2015/078, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 4 September 2015 in the case of Liu v. Secretary-General of the United Nations . Ms. Liu filed an incomplete appeal on 4 November 2015, which was perfected on 16 November 2015. The Secretary-General filed his answer on 5 January 2016.

Facts and Procedure

2. This case concerns the non-renewal of Ms. Liu's fixed-term appointment. The facts relevant to Ms. Liu's appeal, as found by the Dispute Tribunal, are as follows:¹

... The Applicant joined the United Nations on 1 August 2007, under a fixed-term appointment as Programme Assistant (G-5 level), United Nations Office on Drugs and Crime ("UNODC") in China.

... The United Nations Platform for Space-based Information for Disaster Management and Emergency Response ("UN-SPIDER") was created as an [United Nations Office of Outer Space Affairs ("OOSA")] Programme in 2006. The programme, which is financed through funding agreements with donors, is delivered through its Headquarter Offices in Vienna, Austria, and through its Offices in Bonn, Germany and Beijing, China. The latter office became operational in January 2011.

... On 1 July 2011, the Applicant was granted a fixed-term appointment as Programme Associate (G-6) of UN-SPIDER, Beijing, China, with a letter of appointment from the United Nations Development Programme ("UNDP"). The Applicant's post at UN-SPIDER was financed through contributions from the Chinese Government.

... By interoffice memorandum dated 10 February 2012, the Chief, Space Applications Section, OOSA, informed the Head of Office, OOSA Beijing, that the UN-SPIDER Beijing Office financial operations would be shifted to UNDP China, to allow the Beijing Office greater independence and flexibility in its work.

... By email of 22 January 2013, the Chief, Space Applications Section, OOSA, informed the Head of Office, OOSA Beijing, and the Applicant that since the interoffice memorandum of 10 February 2012, by which the Beijing operation had been changed in 2013, had "created a lot of confusion in [their] work not only in Beijing but also in Vienna through 2012", he had decided to withdraw said

¹ Impugned Judgment, paras. 4-12.

the evidence. The UNDT also noted that Ms. Liu did not provide any evidence in support of her allegations that the contested decision was ill-motivated, in particular that it was based on performance issues or otherwise related to her performance appraisals. The comments relating to the need for training in Ms. Liu's e-PAS for 2012-2013 (for which she received a rating of "frequently exceeds performance expectations") did not amount to evidence of any ill motivation for the contested decision. The UNDT rejected Ms. Liu's application.

Submissions

Ms. Liu's Appeal

6. Ms. Liu argues that the UNDT made a number of errors of fact, resulting in a manifestly unreasonable decision. The UNDT incorrectly identified the contested decision. She contested the fact that "[her] contract was terminated when [her] performance issue was not solved". The UNDT also incorrectly stated that she joined the United Nations on 1 August 2007. She states that she joined on 1 April 2005.

7. Ms. Liu contends that part of the rationale given for the restructuring of the OOSA Beijing Office, namely the confusion caused by the 10 February 2012 memorandum, was not correct. She performed her administrative and financial functions satisfactorily from July 2011 to June 2013. She contends that it was not appropriate to raise the need for IMIS training in her e-PAS only at the end of the 2012-2013 performance cycle.

8. Ms. Liu asserts that the Secretary-General's submissions before the UNDT were incorrect, namely that her supervisor had discussed the changes to the operations of the OOSA Beijing Office with her before she received the notice of the non-renewal of her appointment. Ms. Liu states that she only became aware of the rationale given by the Administration for the non-renewal of her appointment after she received the outcome of her request for management evaluation.

The Secretary-General's Answer

9. The Secretary-General contends that the UNDT correctly upheld the decision not to renew Ms. Liu's appointment. The UNDT correctly concluded that the evidence established that the reason for the contested decision was the restructuring of the operational functions of the OOSA Beijing Office and the abolition of the post encumbered by Ms. Liu.

10. The UNDT correctly found that there was no evidence of improper motivation. Ms. Liu

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international organization has the power to restructure some or all of its departments or units, which includes the abolition of posts, the creation of new posts and the redeployment of staff'.⁶

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