

TIP OF THE MONTH

March 2007

Staff Members Holding Fixed-Term Appointments Are Entitled to Reasonable Notice of the Expiration of the Appointment

International organizations often argue that staff members are not entitled to a notice period since the contract of appointment usually contains a clause stating the fixed-term appointment shall expire automatically without notice. The ILOAT recently addressed a question regarding when and what amount of notice is required to be given to a staff member on a series of short-term contracts when the rules do not require any notice except in cases of termination. Judgment No. 2531. In that case, the staff member had been employed continuously for a period of 3 years on short term contracts. His contract was not renewed and a post covering similar duties was advertised and he applied. He was given notice by letter 3 days before his contract expired that it would not be extended or renewed. The organization argued that he was well aware that his contract would not be renewed since he had been informed of that fact first unofficially and then officially 2 weeks before the expiration. It also argued that the vacancy notice issued almost a year prior constituted “reasonable notice” required by the case law and the staff member knew that if he was not selected he would not continue working for the organization. The staff member appealed the decision not to extend his contract and the notice period of 3 days.

The Tribunal upheld the decision not to extend his contract. On the issue of notice, the Tribunal noted that the specific terms of the contract did not provide for any notice period. However, since this staff member had been continuously employed for over 3 years, the staff member was entitled to “reasonable notice” before the decision. In the past, the Tribunal has held that a reasonable period of notice is required in order to allow the staff member to exercise the right to appeal. The Tribunal awarded three months salary and benefits, and the costs of the appeal.

It is important that staff members who challenge the primary decision not to extend an appointment also add a claim for lack of notice if the notice period is short. Most organizations have a policy (usually unwritten) of providing a reasonable notice period. In the case of the IAEA, for example, the notice is one year.

* I specialize in the representation of international civil servants, and serve as council to several staff unions/associations of international organizations, some of which are based in Vienna, Austria. For further information, please send me an e-mail or visit my website.