



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2017-UNAT-755



Ramazani *et al.*

(Appellants)

v.

Secretary-General of the United Nations



... On 8 June 2015, Mr. Eric Blanchard Jibikila, who was a member of the Executive Committee of the National Staff Union, sent a request for management evaluation to the Management Evaluation Unit (MEU) in respect of the then impending abolishment of the 80 LA posts, including the Applicant[s] post[s].

... MEU replied to the designated focal point for the affected LAs on 2 July 2015 and promised to send its decision by 13 August 2015.

... Meanwhile, on 24 June 2015 the Applicant[s] received a memorandum from MONUSCO's CCPO stating that [their] fixed-term appointment[s] would not be renewed beyond 30 June 2015 and that accordingly, [their] separation from the Organization would take effect at the close of business on that same date.

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Submissions

Appellants' Submissions

8. The UNDT erred in law and in fact and failed to exercise its discretion by concluding that their applications were not receivable. The Appellants challenged the Secretary-General's non-renewal of their fixed-term appointments, not the General Assembly's decision. The UNDT conducted only a perfunctory review of the merits of the Secretary-General's recommendation to the General Assembly that led to the contested decision.

9. In concluding that the Appellants' claims were non-receivable, the UNDT erred in its reliance upon *Ovcharenko et al.*⁷ The non-renewal decisions in the Appellants' cases were based upon the Secretary-General's own recommendation to the General Assembly, not on that of a separate entity, as in *Ovcharenko et al.* Most importantly, when the General Assembly approved in June 2015 the Secretary-General's recommendation to abolish the 80 LA posts, it was not appraised of the plan to subsequently retain the staff members encumbering those posts on IC contracts to perform the same functions – a plan that was memorialized in a “note to file” prepared by the Director of Mission Support, MONUSCO in April 2015. No reference was made to this plan in the submissions to the General Assembly (i.e., the Secretary-General's 26 February 2015 report and the Advisory Comm. ICppee 6

12. The Appellants respectfully request that the Appeals Tribunal vacate the impugned Judgments and award compensation or, at the very least, remand their cases for a determination on the merits.

The Secretary-General's Answer

13. The Appellants fail to establish any reversible error by the UNDT. The UNDT correctly concluded that it was not competent to review the decision by the General Assembly to abolish the Appellants' posts. It also correctly determined that the Appellants had no standing to challenge their respective non-renewal decisions in so far as they were properly implemented as a consequence of the General Assembly's decision to abolish their posts.

14. Contrary to the Appellants' assertions, the UNDT in reaching its conclusions did examine the merits of their non-renewal decisions. ST

... The Appellants specifically contended that the General Assembly lacked information about the IC contracts when it reached its decision to abolish the LA posts. The Appellants have argued that the submission by the Secretary-General to the

Judgment

11. The appeals are dismissed and Judgment Nos. UNDT/2016/133, UNDT/2016/146, UNDT/2016/147, UNDT/2016/134, UNDT/2016/148, UNDT/2016/135 and UNDT/2016/149 are hereby affirmed.

Original and Authoritative Version: English

Dated this 14th day of July 2017 in Vienna, Austria.

(Signed)

Judge Knierim, Presiding

(Signed)

Judge Thomas-Felix

(Signed)

Judge Murphy

Entered in the Register on this 5th day of September 2017 in New York, United States.

(Signed)

Weicheng Lin, Registrar