

---

UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2015/121

Judgment No.: UNDT/2016/132

Date: 23 September 2016

Original: English

---

**Before:** Judge Nkemdilim Izuako

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

KALOMBO

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**JUDGMENT**

---

**Counsel for the Applicant:**  
Nicole Washienko, OSLA

**Counsel for the Respondent:**  
Stephen Dietrich, ALS/OHRM  
Nicole Wynn, ALS/OHRM



8. Following the Secretary-General's budget proposal to the General Assembly, MONUSCO issued Information Circulars to its entire staff on 6 and 9 March 2015, 14 April 2015, and 20 April 2015, with regard to the proposed budget, the establishment of a Comparative Review Panel (CRP), and the review criteria.

9. Under the proposed new structure for the Mission, which was approved by the General Assembly, the military force in Bukavu was to be reduced by one battalion and Kinshasa would no longer be an oper[TJ7.52 re TJ7.52 re TJ.209(with )-211(o)-v2005n







b. Pursuant to art. 2.1(a) of its Statute, the Dispute Tribunal lacks jurisdiction to review the matter of the abolition of the post the Applicant encumbered and the recommendation of the Secretary-General to the General Assembly that led to the abolition of the post. These claims are not receivable and should be rejected.

c. The only reviewable administrative decision before the Dispute Tribunal is the decision not to renew the Applicant's appointment due to the abolition of her post.

*Submissions on the Merits*

*The decision not to renew the Applicant's appointment was lawful as the post he encumbered was subject to a legitimate restructuring of the Mission.*

improper purposes. The Applicant bears the burden of proving that the discretion not to renew his or her appointment was not validly exercised.

*A comparative review was not required and the outsourcing of the LA functions was proper in the circumstances.*

h. There was no requirement for the Mission to subject the



representatives had an opportunity to respond by engaging in discussions with the National Staff Union representatives under the UNOPS

of his post by a decision of the General Assembly which by itself is akin to a country's constitution, the higher norm, and the supreme organ of the Organization.

20. By the same token, a decision of the General Assembly is binding on the Secretary-General who has a duty to implement it. The Applicant lacks the capacity to challenge the non-renewal of his appointment in so far as it is properly implemented nm



Case No. UNDT/NBI/2015/121

Judgment No. UNDT/2016/132

*(Signed)*

Judge Nkemdilim Izuako

Dated this 23<sup>rd</sup> day of September 2016

Entered in the Register on this 23<sup>rd</sup> day of September 2016

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi