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UDGE EAN RANÇOIS EVEN RESIDING

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Judgment No. 2021-UNAT-1077

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Therefore, we order the parties to provide any documentary evidence and submissions that we may need in order to reach an informed and reasoned decision regarding the compliance of Mr. D R-B's reassignment with the Organization's gender policy and the impact that any non-

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*Timothy*

*Legal framework in case of termination for abolition of post*

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(a) The Secretary-General may, giving the reasons therefor, terminate the appointment of a staff member who holds a temporary, fixed-term or continuing appointment in accordance with the terms of his or her appointment or for any of the following reasons:

(i) If the necessities of service require abolition of the post or reduction of the staff;

...

(c) If the Secretary-General terminates an appointment, the staff member shall be given such notice and such indemnity payment as may be applicable under the Staff Regulations and Rules. Payments of termination indemnity shall be made by the Secretary-General in accordance with the rates and conditions specified in annex III to the present Regulations;

Termination for abolition of posts and reduction of staff

(e) Except as otherwise expressly provided in paragraph (f) below and staff rule 13.1, if the necessities of service require that appointments of staff members be terminated as a result of the abolition of a post or the reduction of staff, and subject to the availability of suitable posts in which their services can be effectively utilized, provided that due regard shall be given in all cases to relative competence, integrity and length of service, staff members shall be retained in the following order of preference:

(i) Staff members holding continuing appointments;

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! Staff Regulations and Rules quoted here are taken from the Secretary-General's Bulletin ST/SGB/2017/1/Corr.1 issued on 18 January 2017.

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(ii) Staff members recruited through competitive examinations for a career appointment serving on a two-year fixed-term appointment;

(iii) Staff members holding fixed-term appointments.

When the suitable posts available are subject to the principle of geographical distribution, due regard shall also be given to nationality in the case of staff members with less than five years of service and in the case of staff members who have changed their nationality within the preceding five years.

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The Appeals Tribunal emphasizes that the appeals procedure is of a corrective nature and, thus, is not an opportunity for a dissatisfied party to reargue his or her case(o) -o reargue e a

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*Timothy,*

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... The purpose of Staff Rule 9.6(e) is to mitigate the effects of retrenchment on staff members holding non-temporary appointments, insofar as suitable posts are available "in which their services can be effectively utilized, provided that due regard shall be given in all cases to relative competence, integrity and length of service".

... Staff Rule 9.6(e) specifically sets forth a policy of preference for retaining a staff member with a continuing appointment who is faced with the abolition of a post or reduction of staff, and creates an obligation on the Administration to make reasonable efforts to find suitable placements for the redundant staff members whose posts have been abolished. As such, a decision to abolish a post triggers the mechanism and procedures intended to protect the rights of a staff member holding a continuing post, under the Staff Rules and the Comparative Review Policy, to proper, reasonable and good faith efforts to find an alternative post for him or her who would otherwise be without a job. Failure to accord to the displaced staff members the rights conferred under the s -61 ( ET Q-210 3 (be) -1 (2 ( 18 583 -61 (a) 1 (n) e) -1 i) e1 (P) 2 (o) 1 (l) -1 (i) -1 (cy,) -1 ( ) -1

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Asariotis v. Secretary-General of the United Nations, Judgment No. 2013-UNAT-309, para. 36.

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