

UNDT/2010/062, Rosca

UNAT Held or UNDT Pronouncements

Outcome: The application was dismissed.

Decision Contested or Judgment/Order Appealed

The applicant had a one-year fixed-term contract with UNAKRT. Following an extensive organisational review, his post was abolished. A new post which absorbed his functions was advertised. The applicant did not apply for the new post. The applicant contended that the decisions to reassign him and not to renew his appointment were motivated by irrelevant considerations, including a desire by the decision-maker to replace the applicant with a personal friend, and were therefore an abuse of authority.

Legal Principle(s)

Personal attacks on witnesses or parties that cannot be justified by the evidence are contrary to the obligation of counsel to exercise their independent judgment and they are an abuse of the office of counsel which bring both counsel and the administration of justice into disrepute. Managers may have preferred a more efficient and effective individual in the applicant's role but such an attitude is by no means a breach of his or her contract of employment. Mistakes in judgment of an individual's performance and/or ability are part of the human condition and do not necessarily have legal consequences. Management's view of the applicant's performance was not unreasonable and, at all events, the reorganization was bona fide and not aimed at the applicant.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Rosca

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2009/068/JAB/2009/018

Tribunal

UNDT

Registry

New York

Date of Judgement

13 Apr 2010

Duty Judge

Judge Adams

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Disciplinary matters / misconduct

Abuse of authority
Non-renewal
Termination (of appointment)
Abolition of position