

# 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