

UNDT/2013/102, Galbraith

UNAT Held or UNDT Pronouncements

The Applicant's letter of appointment stated that his appointment was subject to termination in the interest of the Organization, as determined by the Secretary-General. By signing his letter of appointment, the Applicant agreed that his appointment could be terminated, in addition to the reasons stated in the staff regulations and rules, this additional discretionary clause. The Tribunal considers that the determination of the interest of the Organization is the Secretary's General exclusive attribute and the circumstances under which the Secretary-General is to determine "the interest of the Organization" can vary from one case to another. When determining the "interest of the Organization", the Secretary-General may take into consideration the purpose of the United Nations, the implementation of the its mandate, together with the uniqueness of its organs and the specificity of the role and activity of the concerned staff member. In the present case the Secretary-General was responsible both for the implementation of the political and diplomatic mandate of UNAMA and for its good administration. Upon considering that the Applicant's termination was in the interest of UNAMA, the Secretary-General had the discretionary power to take an administrative decision to protect the Organization and the mission's mandate. In taking and implementing this decision, the Secretary-General did not breach any of the Applicant's due process rights or the applicable regulations and rules. The UNDT found that the decision was not abusive, arbitrary or the result of some improper motives. The termination was in accordance with the Applicant's letter of appointment which contained a clause that enabled to Secretary-General to separate him in "the interest of the Organization". The Secretary-General did not abuse his discretionary power when he determined that separating the Applicant from service was in the best interest of UNAMA and the Organization.

Decision Contested or Judgment/Order Appealed

The Applicant, a former Deputy Special Representative of the Secretary-General for the UN Assistance Mission in Afghanistan (“UNAMA”) contested the decision to terminate his fixed-term contract in “the interest of the Organization” before its expiry.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Galbraith

Entity

UNAMA

Case Number(s)

UNDT/NY/2010/067

Tribunal

UNDT

Registry

New York

Date of Judgement

8 Dec 2013

Duty Judge

Judge Greceanu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Due process

Termination (of appointment)

Applicable Law

GA Resolutions

- A/RES/61/251
- A/RES/63/253

Staff Regulations

- Regulation 9.3

Staff Rules

- Rule 9.6(c)

UNDT Statute

- Article 8.2(b)
- Article 8.2(d)(i)

Related Judgments and Orders

UNDT/2010/149

UNDT/2010/203

UNDT/2011/059

UNDT/2011/083

2010-UNAT-012

2010-UNAT-081

2012-UNAT-201