

UNDT/2013/152, Andreyev

UNAT Held or UNDT Pronouncements

The Tribunal ordered rescission of the administrative decision to separate the Applicant from service. The Tribunal awarded the Applicant compensation for the substantive and procedural irregularities occasioned him by the failure of the Administration to follow its own guidelines, rules and procedures. Ultra vires - It was not within the competence of the Mission Leadership Team of UNMISS to leave its role of implementing the new mission's mandate in order to dabble into matters of human resource management and the transitioning and de-transitioning of staff from the old mission to the new. The Tribunal is not satisfied that the so called review and re-profiling of posts undertaken by the MLT amounted to anything more than an arbitrary and unlawful exercise of authority. The fact that all posts in UNMIS were necessarily to be abolished as a result of Security Council resolution 1997 (2011) does not legalize the taking of ultra vires decisions and neither does it justify failure to comply with applicable rules Delegated Authority - For peacekeeping missions, the role of classification and profiling of posts is the function of the Field Personnel Specialist Support Service under DFS. There was no evidence that DFS had delegated its authority in this regard to the MLT.

Decision Contested or Judgment/Order Appealed

On 30 December 2011, the Applicant filed an Application contesting the termination of his fixed-term appointment with the United Nations Mission in Sudan ("UNMIS") on the grounds that: the decision (i) was taken without the requisite authority and was ultra vires (ii) the decision was taken arbitrarily in breach of the applicable rules; and (iii) that the process through which some UNMIS staff were transitioned to UNMISS was irregular.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

UNDT ordered both financial compensation and specific performance.

Full judgment

[Full judgment](#)

Applicants/Appellants

Andreyev

Entity

UNMIS

Case Number(s)

UNDT/NBI/2011/89

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

29 Nov 2013

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Separation from service

Termination (of appointment)

Applicable Law

Administrative Instructions

- ST/AI/234/Rev.1

Information Circulars

- UNMIS IC 218/2011
- UNMIS IC 327/2011
- UNMIS IC 334/2011

Security Council Resolutions

- S/RES/1978
- S/RES/1996
- S/RES/1997

Staff Rules

- Rule 9.2(c)

Related Judgments and Orders

UNDT/2013/094

UNDT/2013/112

UNDT/2013/062