

UNDT/2016/008, Filippova

UNAT Held or UNDT Pronouncements

Non-renewal: A non-renewal decision can be based on a mere reduction of work, based on a workload prognosis—made at the time of the decision. This can lead to a situation where a regular budget post remains vacant without actually being abolished. There is no legal obligation for the Administration to renew a staff member's FTA based solely on the fact that the respective post is funded. On the contrary, it may be in the best interest of the Organization to save money instead of using available resources at all cost. In assessing future workload, the Administration necessarily has to make some prognosis, on the basis of the elements available at the time of the contested decision. Factual developments relating to the future workload after the date of the decision have to remain out of consideration, and do not have an impact on the legality of the decision under review.

Extraneous factors: The burden of proof with respect to extraneous considerations falls on the Applicant.

Staff consultation: An individual non-renewal decision based on a projected reduction of work cannot be characterized as one affecting a “department or office or at least a significant number of staff in a particular unit or service”, as required by the relevant bulletins. Therefore, it is not subject to staff consultation, even if the decision was taken in the context of a change of the organizational structure within the Department.

Decision Contested or Judgment/Order Appealed

The Applicant, a former Text Processing Clerk at the Russian Text Processing Unit, Division of Conference Management, Office of the United Nations at Geneva, contested the non-renewal of her appointment. The decision was based on the expected decrease of workload and in view of complying with DGACM policy regarding the organizational structure of all text processing units. In light of the available record, the UNDT was satisfied that the reasons provided for the non-renewal were supported by the evidence, and that the Applicant failed to prove that it was based on extraneous considerations.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Filippova

Entity

UNOG

Case Number(s)

UNDT/GVA/2015/116

Tribunal

UNDT

Registry

Geneva

Date of Judgement

28 Jan 2016

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Burden of proof

Non-disciplinary

Non-renewal

Arbitrary or improper motive

Reason(s)

Separation from service

Applicable Law

Secretary-General's bulletins

- ST/SGB/172
- ST/SGB/274

Staff Rules

- Rule 4.13(c)
- Rule 9.6(c)

Related Judgments and Orders

2015-UNAT-500

2011-UNAT-153

2012-UNAT-201

2010-UNAT-021

2014-UNAT-471

2012-UNAT-236

2011-UNAT-115

UNDT/2014/069