

UNDT/2016/047, Mardin

UNAT Held or UNDT Pronouncements

Termination of permanent appointment in case of post abolition: A decision to terminate a permanent appointment of a General Service staff member, taken on the basis of a decision by the General Assembly to abolish all posts in the category of that encumbered by the Applicant is legal, provided that no post at the mission remains for which the Applicant could potentially have been considered. Staff consultation: An essential element of consultation is that each party have the opportunity to make the other party aware of its views. However, consultations are not negotiations and it is not necessary for the Administration to secure consent or agreement of the consulted parties.

Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of the United Nations Disengagement Observer Force (“UNDOF”), Syria, at the GL-2 level, contests the decision to terminate his indefinite appointment effective 30 June 2015. The termination decision was taken by the Under-Secretary-General for management, pursuant to a decision by the General Assembly confirming the abolition of several posts at UNDOF, including all posts at the GL-1 and GL-2 level. The Tribunal found that in implementing the decision of the General Assembly, no post for which the Applicant could potentially have been considered remained at UNDOF. It found the decision to terminate the Applicant’s appointment in accordance with the relevant rules, duly taking into account operational realities and the interests of the Organization. Requirements of staff consultation had also been duly respected. Thus, the application was rejected.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mardin

Entity

UNDOF

Case Number(s)

UNDT/GVA/2015/153

Tribunal

UNDT

Registry

Geneva

Date of Judgement

28 Apr 2016

Duty Judge

Judge Downing

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Appointment (type)

Permanent appointment

Separation from service

Termination (of appointment)

Abolition of position

Applicable Law

Staff Regulations

- Regulation 9.3(a)(i)

Staff Rules

- Rule 13.4
- Rule 9.6(a)
- Rule 9.6(c)(i)

Related Judgments and Orders

UNDT/2010/009

2013-UNAT-281

2014-UNAT-433

2010-UNAT-084

2014-UNAT-481

2015-UNAT-530

2015-UNAT-568