

# UNDT/2016/189, Luhumbu

## UNAT Held or UNDT Pronouncements

Decisions of the General-Assembly - A decision of the General Assembly is binding on the Secretary-General who has a duty to implement it. The Applicant lacks the capacity to challenge the non-renewal of her appointment in so far as it is properly implemented in consequence of the General Assembly's decision to abolish it. Interpretation of section 3.7 (b) of ST/AI/2013/4 - Section 3.7 (b) does not envisage a situation of post abolishment. The said section contemplates a situation where the post formerly encumbered by a former or retired staff member continues to exist and the separated staff member is reengaged as a consultant or individual consultant to continue to perform the same functions. The mischief that that section seeks to avoid is the continued indirect encumbrance of a post under the guise of a consultancy or individual contract by a staff member who by reason of retirement or other form of separation has left the Organization.

## Decision Contested or Judgment/Order Appealed

The Applicant is a former staff member of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO). On 11 November 2015, he and several other MONUSCO staff members filed Applications contesting the decisions not to renew their fixed-term appointments and to separate them from service on the grounds of abolition of their posts. The UNDT found that the Applicant cannot challenge a decision by the General Assembly to abolish his post, that his Application has no merit and is not receivable. Further, his claims regarding his offer of employment under an IC contract by UNOPS and lack of equal treatment have no merit. The Application is accordingly refused.

## Outcome

Dismissed as not receivable

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Luhumbu

## Entity

MONUSCO

## Case Number(s)

UNDT/NBI/2015/125

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

17 Oct 2016

## Duty Judge

Judge Izuako

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Non-renewal

Separation from service

## Applicable Law

Administrative Instructions

- ST/AI/2013/4