

# UNDT/2020/072, Russo-Got

## UNAT Held or UNDT Pronouncements

The Respondent did not prove that the Applicant was appropriately informed about the non-renewal of his fixed-term appointment at the 25 October 2018 meeting. Since no other communication regarding the non-renewal has been submitted in evidence except the separation letter dated 22 January 2019, the Applicant's request for management evaluation of 23 January 2019 was therefore timely pursuant to staff rule 11.2(c).; The decision to abolish the Applicant's post is not a decision that can be appealed separately in the present case, and the decision not to renew the Applicant's contract is also under review.

## Decision Contested or Judgment/Order Appealed

Abolition of the Applicant's post and the non-renewal of his appointment

## Legal Principle(s)

The Dispute Tribunal has the inherent power to individualize and define the administrative decision challenged by a party and to identify the subject(s) of judicial review. When defining the issues of a case, the Dispute Tribunal may consider the application as a whole.; The obligation for the Administration to undertake efforts to find an alternative post only extends to a situation where a staff member's appointment is terminated and not where it is not renewed.; If a staff member with standing admits that s/he was verbally notified about the contested decision, then the time limit for management evaluation starts to run from that moment and not from the time of a subsequent follow-up written notification.; The decisive moment of notification for purposes of Staff Rule 11.2(c) is when all relevant facts were known, or should have reasonably been known.; The situation is different from one involving an informal or casual verbal communication or one where the content of the verbal communication is disputed and the facts do not support a reasonable basis upon which to make the necessary findings of 'clear and unambiguous' and 'sufficient gravitas'.; Even if the Respondent failed to summarize his submissions on abolition of post, the Dispute Tribunal is, nevertheless, required to examine its jurisdiction sua sponte.; The decision to abolish a certain post is not receivable and the appealable decision is rather the final decision not to renew a fixed-term appointment. It is the latter decision, following on from the abolition, that constitutes the administrative decision subject to judicial review.

## Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Russo-Got

Entity

UNOPS

Case Number(s)

UNDT/NY/2019/7

Tribunal

UNDT

Registry

New York

Date of Judgement

13 May 2020

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Separation from service

Expiration of appointment (see also, Non-renewal)

Applicable Law

Staff Rules

- Rule 11.2
- Rule 9.6(e)

UNDT Statute

- Article 2.1

Related Judgments and Orders

2017-UNAT-765

2018-UNAT-876

2019-UNAT-902

2017-UNAT-746

2011-UNAT-182

2016-UNAT-643