

2017-UNAT-750, Kagizi et al.

UNAT Held or UNDT Pronouncements

UNAT consolidated the 51 appeals into seven groups heard by seven judicial panels, the first group (Kagizi et al. judgment No. UNDT/2016/131) being heard by the full bench. UNAT dismissed the appeals. UNAT confirmed UNDT's finding that the appellants lacked standing to challenge the non-renewal of their appointments in so far as they were deemed to be a direct challenge against the General Assembly's decision to abolish the posts. UNAT noted that, while in other aspects, UNDT regarded the applications as receivable and dealt with the merits of the case, those findings were not substantially challenged on appeal. "In order to give guidance", UNAT noted that UNDT had no authority to review the re-engaging of the appellants by the United Nations Office for Project Services (UNOPS) as individual contractors as this was not an administrative decision subject to judicial review.

Decision Contested or Judgment/Order Appealed

The fixed-term appointments of 51 applicants, all former Language Assistants at the General Service level with the United Nations Organisation Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), expired on 30 June 2015 and were not renewed because the posts encumbered had been abolished by a decision of the General Assembly with effect from 1 July 2015. The applicants challenged the non-renewal of their appointments and several ancillary matters before UNDT. UNDT issued 51 individual judgments, dismissing the applications. UNDT found that: (i) the Appellants' challenges to the abolition of their posts were not receivable on the grounds that staff members lacked standing to challenge a decision taken by the General Assembly; (ii) their challenges to the non-renewal of their appointments were not receivable "in so far as [the non-renewal decisions were] properly implemented in consequence of the General Assembly's decision to abolish [the posts they encumbered]"; (iii) the contested administrative decisions taken as a result of the decisions of the General Assembly were lawful; (iv) the provisions of Section 3. 7(b) of Administrative Instruction ST/ AI/2013/4 (Consultants and

individual contractors) were not contravened by their subsequent recruitment under Individual Contractor contracts; and, (v) no unequal treatment occurred in the implementation of the Mission's restructuring.

Legal Principle(s)

The General Assembly is the ultimate decision-making organ in the Organisation and its decisions are not subject to challenge in the internal justice system. Generally speaking, applications against non-renewal decisions are receivable. However, where the challenge of a non-renewal of appointment has been intertwined with a challenge of a decision of the General Assembly to abolish posts, the application is not receivable.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Kagizi et al.

Entity

MONUSCO

Case Number(s)

2016-1040

2016-986

2016-987

2016-988

2016-989

2016-990

2016-991

2016-992

2016-993

Tribunal

UNAT

Registry

New York

Date of Judgement

14 Jul 2017

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Jurisdiction / receivability (UNDT or first instance)

Non-renewal

Applicable Law

Administrative Instructions

- ST/AI/2013/4

Staff Rules

- Rule 4.13

Related Judgments and Orders

UNDT/2016/131
UNDT/2016/126
UNDT/2016/128
UNDT/2016/129
UNDT/2016/130
UNDT/2016/127
UNDT/2016/155
UNDT/2016/156
UNDT/2016/189