

2020-UNAT-1021, Collins

UNAT Held or UNDT Pronouncements

UNDT did not err in law or in fact when it found that the decision to abolish the post was lawful. However, in not providing reasons for its decision to commute the six-month notice period into compensation, the Organisation failed in its duty to demonstrate that its discretion was not exercised arbitrarily, capriciously, or unlawfully. The Administration failed to meet its burden to minimally demonstrate that the Appellant was given full and fair consideration. The Administration acted arbitrarily and thus failed to exercise its discretion lawfully. The termination of the Appellant's appointment was unlawful. UNAT upheld the appeal in part, modified the UNDT judgment, and ordered rescission of the decision to terminate the Appellant's appointment or compensation in lieu.

Decision Contested or Judgment/Order Appealed

The Applicant contested the Administration's decision to terminate her fixed-term appointment as a result of the abolition of her post. UNDT dismissed the application on grounds that the contested decision was the result of a valid exercise of discretion and the Administration had complied with procedural requirements.

Legal Principle(s)

The Administration is bound to demonstrate that all reasonable efforts have been made to consider a staff member whose post has been abolished for available suitable posts. Where there is a doubt that a staff member has been afforded reasonable consideration, it is incumbent on the Administration to prove that such consideration has been given. Staff members facing termination due to abolition of their post must show an interest in a new position by fully and in a timely manner applying for the position.

Outcome

Appeal granted in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Collins

Entity

UNFPA

Case Number(s)

2020-1351

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Jun 2020

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abolition of post

Termination

Non-renewal

Applicable Law

Other UN issuances (guidelines, policies etc.)

Staff Regulations

- Regulation 9.3(a)(i)
- Regulation 9.3(c)

Staff Rules

- Rule 9.6(e)

Related Judgments and Orders

UNDT/2019/164

2013-UNAT-311

2018-UNAT-847

2016-UNAT-688

2017-UNAT-768

2017-UNAT-765

2017-UNAT-785

2016-UNAT-652

2015-UNAT-556

2015-UNAT-527

2019-UNAT-966

2010-UNAT-084

2012-UNAT-201

2011-UNAT-115