

# UNDT/2022/109, Scheibner Mesas

## UNAT Held or UNDT Pronouncements

The fact that the Applicant accepted a lower level post did not make his application moot. The Administration failed to fulfil its obligation to offer available positions at the same level of the abolished post. The Applicant sustained and continues to sustain a relevant loss of salary because the Administration failed to make good faith efforts to place him in one of the positions that he applied to at the P-5 level, positions for which he was duly qualified. The Administration also failed to meet its obligation to reassign the Applicant as a matter of priority to another post matching his abilities and grade. Allowing the Administration to bypass its obligation towards continuing appointment holders facing abolition of posts by offering any available post at a lower level without considering their pending applications at their level would be absurd and contrary to the Appeals Tribunal's intention in Timothy, given that reassignment is not a means to demote a staff member losing his/her position.

## Decision Contested or Judgment/Order Appealed

The Applicant challenged the Respondent's decision to terminate his continuing appointment following the abolition of the post he encumbered.

## Legal Principle(s)

The Organization shall not terminate the appointment of a staff member whose post has been abolished, at least if he or she holds an appointment of indeterminate duration, without first taking suitable steps to find him/her alternative employment. In other terms, compliance with the recalled rule is relevant for the lawfulness of the termination decision.

## Outcome

Judgment entered for Applicant in full or in part

## Outcome Extra Text

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Scheibner Mesas

## Entity

UNAMID

## Case Number(s)

UNDT/NBI/2021/57

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

7 Oct 2022

## Duty Judge

Judge Buffa

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Alternative appointment

Priority consideration

Abolition of post

## Applicable Law

Staff Rules

- Rule 13.1(d)
- Rule 9.6

## Related Judgments and Orders

UNDT/2020/032

UNDT/2016/204

UNDT/2016/193

UNDT/2017/080

2018-UNAT-847

UNDT/2016/102

2021-UNAT-1104

2017-UNAT-742

2017-UNAT-724

2016-UNAT-640

2019-UNAT-899

2014-UNAT-469