

2023-UNAT-1395, Abdurrahman Turk

UNAT Held or UNDT Pronouncements

The UNAT declined Mr. Turk's request for an oral hearing, and found no error in the UNDT's decision not to order the production of additional documents.

The UNAT reaffirmed the legal framework which provides that staff members have no legitimate expectation of any renewal of their fixed-term appointments. The UNAT also confirmed that the Tribunals will not interfere with the Organization's discretion in restructuring decisions, and that the Tribunals have no authority to review General Assembly decisions related to administrative and budgetary matters. In this case, the UNAT held that the UNDT did not err in finding that the General Assembly's decision to eliminate one P-4 Political Affairs Officer post in UNAMI was lawful. The UNAT also found that there was no unreasonableness or unlawfulness in the terms of reference for the comparative review process. The UNAT rejected Mr. Turk's allegations regarding his performance ratings for UN core values, and that the wrong Personal History Profile (PHP) for him was used. The UNAT noted that the PHP which was used in the comparative review process was advantageous to Mr. Turk. The UNAT held that Mr. Turk had not carried his burden to prove bias and discrimination by UNAMI, and also rejected Mr. Turk's complaints about the UNDT Judge. In sum, the UNAT held that Mr. Turk's confidence in his own qualifications could not undermine the outcome of the comparative review process. Finally, the UNAT stated that it was not the role of the Appeals Tribunal to conduct its own investigation into Mr. Turk's claims.

The UNAT affirmed the UNDT Judgment.

Decision Contested or Judgment/Order Appealed

In Judgment No. UNDT/2022/118, the United Nations Dispute Tribunal dismissed Mr. Turk's application in which he challenged the Administration's decision not to renew his fixed-term appointment. The UNDT found that the downgrading of the type of post that Mr. Turk held was lawful, and that the comparative review process among affected staff members in this post was substantively and procedurally fair. The UNDT found no evidence of discriminatory treatment of Mr. Turk.

Mr. Turk appealed.

Legal Principle(s)

An administrative decision not to renew a fixed-term appointment can be challenged on the grounds that the Administration has not acted fairly, justly or transparently with the staff member or was motivated by bias, prejudice or improper motive. The staff member has the burden to prove such factors played a role in the administrative decision.

It is a well-established principle that the decisions made by the General Assembly, such as those related to administrative and budgetary matters, are not subject to challenge in the internal justice system.

The standard of judicial review of a recommendation from a comparative review process is that the Tribunals will assess whether the applicable Staff Regulations and Rules have been applied in a fair, transparent and non-discriminatory manner.

It is not the role of the Tribunals to consider the correctness of the choice made by the Secretary-General nor to substitute its own decision for that of the Secretary-General.

It is not the role of the UNAT to gather evidence.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Abdurrahman Turk

Entity

UNAMI

Case Number(s)

2023-1770

Tribunal

UNAT

Registry

New York

Date of Judgement

4 Dec 2023

President Judge

Judge Sandhu

Judge Gao

Judge Forbang

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Arbitrary or improper motive

No expectancy of renewal

Reason(s)

Termination (of appointment)

Abolition of position

Applicable Law

Staff Rules

- Rule 4.13
- Rule 9.4
- Rule 9.6(e)

UNAT RoP

- Article 18.1
- Article 8.3

UNAT Statute

- Article 18.1

- Article 2.1

UNDT RoP

- Article 18

Related Judgments and Orders

2023-UNAT-1364

2015-UNAT-592

2011-UNAT-110

2013-UNAT-281

2019-UNAT-902

2021-UNAT-1082

2022-UNAT-1204

2017-UNAT-750

2014-UNAT-450

2015-UNAT-582

2021-UNAT-1148