

UNDT/2024/110, Scepanovic

UNAT Held or UNDT Pronouncements

The Tribunal found that the Applicant's appointment was lawfully terminated under staff regulation 9.3(a)(i) following the termination of MINUSMA's mandate. The Tribunal found that there is no basis for the Applicant's claim that the Administration unlawfully terminated his appointment early because of his health. The Tribunal found that the Applicant's reliance on ST/AI/2019 and ST/AI/1999/16 was misguided since his appointment was not terminated on health grounds.

Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member with the United Nations Multidimensional Integrated Stabilization Mission in Mali ("MINUSMA"), contested the decisions: (a) to terminate his fixed-term appointment effective 31 May 2024, and (b) not to place him on "special leave with half pay" ("SLWHP"), following the exhaustion of his entitlements to annual leave and certified sick leave.

Legal Principle(s)

The Tribunal found that the Applicant's reliance on ST/AI/2019 and ST/AI/1999/16 is misguided since his appointment was not terminated for reasons of health. In particular, the provisions of ST/AI/2019/1 do not entitle the Applicant to a suspension of the termination decision because he seeks a review of the medical determination that was communicated to him on 23 April 2024. Section 1.2 of ST/AI/2019/1 explicitly provides that "[a] request for review of a medical determination does not have the effect of suspending the implementation of any administrative decision taken on the basis of the contested medical determination". The provisions of ST/AI/1999/16 do not entitle the Applicant to be placed on SLWHP or otherwise prevent the termination of his appointment as the provision only applies to termination on health grounds.

Outcome

Dismissed on merits

Outcome Extra Text

The Organization enjoys a broad discretion to reorganise its operations and departments to meet changing conditions, including by abolishing posts (see, for example, *Russo-Got* 2021-UNAT-1090; *Timothy* 2018-UNAT-847; and *Smith* 2017-UNAT-768). In *Collins* 2020-UNAT-1021, para. 25, the Appeals Tribunal stated "[i]n the context of the ongoing budgetary shortfall when the contested administrative decision was taken, it was reasonable to expect some kind of retrenchment by the Administration. Nevertheless, an administrative decision to terminate a fixed-term appointment can be challenged on the grounds that the Organization had not acted fairly, justly, or transparently with the staff member, or was motivated by bias, prejudice or improper motive".

Full judgment

[Full judgment](#)

Applicants/Appellants

Scepanovic

Entity

MINUSMA

Case Number(s)

UNDT/NY/2023/023

Tribunal

UNDT

Registry

New York

Date of Judgement

11 Dec 2024

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Termination (of appointment)

Applicable Law

Administrative Instructions

- ST/AI/1999/16
- ST/AI/2009/1

Related Judgments and Orders

2021-UNAT-1090

2018-UNAT-847

2017-UNAT-768

2020-UNAT-1021