

UNDT/2025/022, Ooko

UNAT Held or UNDT Pronouncements

a. Regarding the first contested decision, the Tribunal established that based on the evidence on record, the Organization terminated the Applicant's appointment under staff rule 9.6(c) due to the abolishment of the post that he encumbered. Accordingly, the Tribunal concluded that the termination of the Applicant's permanent appointment on the basis of abolishment of his post was procedurally proper and lawful.

b. On the second issue, the Tribunal established that based on the evidence before it, the Organization had fulfilled its obligation under staff rule 9.6(c) to make reasonable and good faith efforts to assist the Applicant in finding an alternative position. The Applicant was given priority consideration for the positions for which he was eligible and for which he applied during the applicable period. The Tribunal, therefore, held that the Administration had demonstrated that all reasonable efforts were made to consider the Applicant for available suitable posts in keeping with staff rule 9.6(c).

c. In relation to issue three, the Tribunal observed that the Applicant was assigned to and was already residing in his home country of Kenya at the time of his separation on 31 August 2024. The Tribunal, therefore, found that the decision not to pay the Applicant a repatriation grant upon his separation from the Organization was lawful.

In light of the foregoing, the Tribunal decided to deny the application in its entirety.

Decision Contested or Judgment/Order Appealed

The Applicant contested three decisions:

- a. The 19 May 2024 decision to terminate his permanent appointment due to abolition of the post he encumbered;
- b. The decision not to retain him in service in accordance with staff rule 9.6 (c); and
- c. The decision not to pay him repatriation grant upon his separation from the Organization.

Legal Principle(s)

- a. It is a well settled jurisprudence that an international organization necessarily has the power to restructure some or all of its departments or units, including the abolition of posts, and the Tribunal will not interfere with a genuine organizational restructuring even though it may have resulted in the loss of employment of staff. However, like any other administrative decision, the Administration has the duty to act fairly, justly and transparently in dealing with staff members.
- b. Pursuant to General Assembly Resolution A/RES/49/241, repatriation grant and other expatriate benefits are limited to staff members who both work and reside in a country other than their home country.
- c. The Staff Rules do not provide an absolute right for any staff member to be retained.
- d. A permanent appointment does not guarantee an appointment until retirement or the mandatory age of separation of 65. Permanent appointments only provide for priority consideration as outlined in staff rule 9.6(c) under conditions specified in sections 5.10 and 5.11 of ST/AI/2023/1

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ooko

Entity

Other peacekeeping mission

Case Number(s)

UNDT/NBI/2024/062

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

15 May 2025

Duty Judge

Wallace

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Administrative decision

Reasons

Applicable Law

Administrative Instructions

Staff Regulations

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

Staff Rules

- Rule 13.2
- Rule 7.1
- Rule 9.6(c)
- Rule 9.7

Secretary-General's bulletins

- ST/SGB/2019/2

Related Judgments and Orders

2017-UNAT-759

2014-UNAT-433

2014-UNAT-450

2015-UNAT-592

2010-UNAT-081

2017-UNAT-765

UNDT/2022/105