

  
**Judgment No. 2020-UNAT-989**



**Counsel for Ms. Lamb: Robbie Leighton**

**Counsel for Secretary-General: Noam Wiener**



4. Ms. Lamb filed a timely request for management evaluation. The Management Evaluation Unit (MEU) upheld DESA's decision. On 11 June 2012, Ms. Lamb (and seven other UNAKRT staff members who were likewise denied conversion) filed separate applications with the UNDT.

5. While still awaiting a decision of this case, Ms. Lamb informed the Administration, by letter dated 30 May 2013, that she would not seek renewal of her fixed-term appointment with UNAKRT. Upon the expiry of her appointment on 30 June 2013, Ms. Lamb separated from service.

6. On 26 August 2014, the UNDT, disposing of the eight applications (including Ms. Lamb's), issued *Tredici et al.*<sup>1</sup> and rescinded the decision of the Assistant Secretary-General for Human Resources Management (ASG/OHRM) to not convert their

instruction in *Malmström et al.*<sup>3</sup> The UNDT rescinded the decisions and remanded the claims to the ASG/OHRM for retroactive and individualized consideration. The UNDT awarded moral damages of EUR 3,000 to each applicant. The UNDT's Judgment in *Gueben et al.* was appealed to the Appeals Tribunal, which issued its Judgment on 28 October 2016,<sup>4</sup> affirming the UNDT's Judgment but vacating the moral damages award.

9. On 17 March 2017, the Acting Assistant Secretary-General for Human Resources Management (AASG/OHRM) informed Ms. Lamb that, upon reconsideration, she was offered a permanent appointment "limited to service with UNAKRT effective retroactively 30 June 2009". Ms. Lamb sent an e-mail to the Chief of the Human Resources Management Services (HRMS) accepting the offer of appointment, indicating she was available to work, and requested advice as to the next steps and when she should report for duty. By e-mail dated 3 May 2017, the Chief of HRMS responded to Ms. Lamb noting that she had septmed from the



appointment. Her rights stemming from her appointment were extinguished by her resignation with effect from 30 June 2013 and did not continue thereafter.

13. The UNDT erred in law by analogizing Ms. Lamb's situation to that of a staff member facing an abolition of post. This was erroneous in law because Ms. Lamb was not separated from service by termination, but rather at her own volition by resignation. In situations of abolitions of post, the Organization is obliged to give preference to staff members holding permanent appointments who, through no fault of their own, have found themselves unable to hold onto their posts subject to downsizing or retrenchment. In this case, Ms. Lamb resigned and separated from service. A staff member's lack of choice in an abolition of post situation cannot be equated to Ms. Lamb's voluntary separation by resignation. Thus, the Appeals Tribunal should hold that abolition of a post was not the correct paradigm by which to have evaluated Ms. Lamb's rights.

14. The UNDT erred in law by concluding that Ms. Lamb was entitled to consideration, on a non-competitive basis, for the UNAKRT positions. The UNDT erred in interpreting the *Timothy*<sup>6</sup> case in finding preferential consideration meant there was no requirement to competitively recruit and Ms. Lamb needed only to express her interest in a vacant post to enable her to be appointed to it. The Secretary-General says that this was permitted to stand, it would involve any need for assessing whether a candidate is fully

no point challenged her standing. The UNDT thus correctly concluded there was a contractual relationship established in 2017.

16. The UNDT did not err in analogizing





benefits except

