



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2020-UNAT-1067

**Vladislav Krioutchkov
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

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| Before: | Judge Martha Halfeld, Presiding Judge Sabine Knierim Judge Dimitrios Raikos |
| Case No.: | 2020-1367 |
| Date: | 30 October 2020 |
| Registrar: | Weicheng Lin |

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|-------------------------|---------------------|
| Counsel for Appellant: | Mohamed Abdou, OSLA |
| Counsel for Respondent: | Jiyoung Kwon |

JUDGE MARTHA HALFELD, PRESIDING.

1. Mr. Vladislav Krioutchkov, a Russian Translator, P-3, holding a permanent appointment at the Economic and Social Commission for Asia and the Pacific (ESCAP) in Bangkok, Thailand, has appealed Judgment No. UNDT/2019/186, by which the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) dismissed his application whereby he challenged the decision not to evaluate him for the position of Russian Translator (P-3), at the United Nations Office at Nairobi (UNON), advertised under job opening number 15-LAN-UNON-39481-F-NAIROBI (L) (JO 39481).

2. On appeal, the United Nations Appeals Tribunal (Appeals Tribunal) grants the appeal and vacates the UNDT Judgment, rescinding the decision to remove Mr. Krioutchkov from the selection process for JO 39481 and setting compensation in lieu at the equivalent of two months' net base salary, plus interest.

Facts and Procedure

3. Mr. Krioutchkov is a Russian Translator, P-3, holding a permanent appointment at ESCAP, based in Bangkok, Thailand.

4. On 21 May 2015, he applied for JO 39481. By e-mail of 6 May 2016 to the Head, Russian Translations Unit, UNON, Mr. Krioutchkov inquired about the status of his application. By return e-mail of 1 July 2016, the Human Resources Management Service (HRMS), UNON, informed him that the JO in question was only open to candidates available for placement from the existing Russian Language Exam Roster. He was further advised that applications from candidates not on said roster, such as his, were screened out by the Organization's recruitment system (Inspira).

5. By application to the UNDT filed on 13 December 2016, Mr. Krioutchkov contested the decision not to consider his candidature for JO 39481, as well as his non-selection for said JO. By Judgment No. UNDT/2018/093 dated 21 September 2018, the UNDT found that Mr. Krioutchkov's eligibility had not been assessed in a transparent manner but rather through unpublished requirements unknown to the candidates, as the JO did not indicate that the consideration for the vacancy was limited to rostered candidates. The UNDT rescinded the contested decision and set compensation in lieu of rescission.

6. The Secretary-General appealed the above-mentioned Judgment arguing, among other things, that the Administration had properly conducted the selection exercise in accordance with the applicable legal framework given by Administrative Instruction ST/AI/2000/1 (Special conditions for recruitment or placement of candidates successful in a competitive examination for posts requiring special language skills, as amended by ST/AI/2003/1), which, with reference to posts requiring special language skills, bound the Administration to fill the advertised position only with candidates who were on the roster of successful candidates for the Russian language examination.

7. Mr. Krioutchkov answered that he had been on a roster of eligible candidates for a long time, and that he should have remained on the roster because no rule allows the Administration to remove successful candidates from the roster of eligible candidates following their assignment to a post, and given, on the contrary, the enduring possibility for language rostered candidates to be assigned to language posts at other duty stations.

8. In Judgment No. 2019-UNAT-920, the Appeals Tribunal found that the Administration had lawfully followed the recruitment procedure under ST/AI/2000/1, which was limited to candidates placed on a roster and that, as such, Mr. Krioutchkov's application was not considered because he was no longer on the respective roster. The Appeals Tribunal found necessary to verify whether successful candidates, once assigned to a post, were removed from the roster or if they remained thereon with the related possibility of lateral moves and reassignment to language posts at other duty stations. Finding this issue "critical" in determining whether the process followed by the Administration was unlawful, the Appeals Tribunal vacated the UNDT Judgment and remanded the case to the UNDT for a factual determination of all the evidence related to the roster, placement, and removal of candidates.

9. By Order No. 78 (GVA/2019) of 11 October 2019, the UNDT invited the parties to submit all documentary evidence, including witness statements, about the law applicable to the creation and management of rosters, with specific reference to the removal from rosters of the successful candidates following their selection to a given post, as well as the practice followed by the Organization using such staff selection mechanism.

10. The Secretary-General responded to the above-mentioned Order and Mr. Krioutchkov submitted comments on the Secretary-General's submission. Subsequently, in response to UNDT Order No. 98 (GVA/2019), the parties agreed to the case being adjudicated on the papers and filed closing submissions.

11. On 20 December 2019, the UNDT issued Judgment No. UNDT/2019/186, dismissing the application.

12. The UNDT noted that language competitive examinations are explicitly excluded from the application of Administrative Instruction ST/AI/2010/3 (Staff selection system) (which allows to maintain a pool of roster candidates for selection for a certain time also after appointment) and are instead governed by ST/AI/2000/1, which provides that during the initial five-year period that successful language post candidates are expected to serve, it is possible to reassign them to "language posts at other duty stations according to the needs of the Organization". Once candidates are selected from a language competitive examination roster, they do not maintain their roster status and they are granted a permanent appointment upon satisfactory completion of the probationary period set in the rules.

13. The UNDT also noted that, according to the collected evidence, and in particular the statement of 29 October 2019 by the Human Resources Officer, it was confirmed that the Administration had always been following a practice of removing successful candidates from the language roster of eligible candidates once assigned to a post, in compliance with the above mentioned legal framework. In view of the foregoing, the UNDT found that Mr. Krioutchkov had been lawfully screened-out from the selection process for JO 39481. The UNDT accordingly dismissed the application.

Submissions

Mr. Krioutchkov's Appeal

14. Mr. Krioutchkov claims that the UNDT failed to establish whether the Administration had at any time informed Mr. Krioutchkov or other candidates that it removed successful candidates from language rosters once selected for a post. Mr. Krioutchkov has repeatedly argued that he had not been informed of his removal from the roster, let alone of his ineligibility to apply to any other P-2 or P-3 language posts. The Administration also did not indicate whether it was, as part of its practice, customary to notify successful candidates of their roster

status and ineligibility to apply to entry-level language posts (i.e. P-2 and P-3). This aspect is directly relevant to the lawfulness of the contested decision as it reflects a failure to abide “by the tenets of transparency and fairness”.

15. Mr. Krioutchkov further contends that the UNDT erred in finding that there was a legal basis for roster membership removal. The only legal basis that the UNDT identified for removing successful candidates from language roster was Section 2.2 of ST/AI/2000/1 which provides that it is possible to reassign staff to language posts at other duty stations according to the needs of the Organization. This possibility is not however specific to language posts. It is common to all international staff positions within the United Nations and may therefore not constitute a proper basis for treating language rosters differently. Moreover, language staff may not exclusively rely on the Administration’s willingness to reassign them elsewhere since reassignment is discretionary and may never take place, such as in Mr. Krioutchkov’s case who has served with the Organization since 1992 and has never been considered for reassignment. The Administration’s practice of removing current staff members from the roster of successful candidates is a unilateral amendment to the applicable regime which modifies important aspects of eligibility criteria and precludes internal candidates from being assigned to other positions for which they are deemed suitable within the Organization.

16. For Mr. Krioutchkov, the UNDT failed to give any consideration to the discriminatory effects of the Administration’s practice. The removal of P-3 staff from language rosters precludes them from expressing interest in, or being considered for, other language positions at the same level. Such removal from the roster, coupled with the absence of a centralized reassignment process, significantly affects staff mobility. By being removed from the roster, Mr. Krioutchkov has been subject to limited or no mobility which has negatively impacted his career development opportunities, as it hinders his prospects for promotion to non-language positions at the P-5 level. The procedure set out in ST/AI/2000/1 is incompatible with Article 101 of the Charter and Staff Regulation 4.4.

17. Mr. Krioutchkov avers that the Administration failed to follow the proper procedure for enacting legal rules and thereby failed to act transparently and fairly and made eligibility criteria dependent on arbitrary standards. The duty of fairness and transparency applies not only to eligibility criteria contained in vacancy announcements but also to other conditions affecting Mr. Krioutchkov’s eligibility to a particular post. The Administration may not, as in the present case, unilaterally modify or alter eligibility criteria without informing staff members.

18. Mr. Krioutchkov asks that the Appeals Tribunal vacate the UNDT Judgment; rescind the contested decision and set a reasonable amount of compensation in lieu of rescission.

The Secretary-General's Answer

19. The Secretary-General argues that the UNDT correctly concluded that language roster membership ends upon placement on a language post and that Mr. Krioutchkov was correctly screened out. The UNDT correctly interpreted the legal framework of ST/AI/2000/1 and ST/AI/2010/3, and further applied the witness testimony by the Administration, to conclude that “unless otherwise expressly provided, language roster membership ends upon placement against a language post”. In the absence of an express provision in ST/AI/2000/1 regarding the duration of roster membership, the UNDT correctly took into account the witness testimony by the Administration, in which the Human Resources Officer clearly stated that the Administration removes successful candidates from language rosters once selected for a post and that ST/AI/2000/1 does not provide for continuous retention of rostered candidates on the language roster.

20. The Secretary-General further maintains that the UNDT correctly stated that the Appeals Tribunal had determined that the legal framework for the examination of Mr. Krioutchkov's case was set only by ST/AI/2000/1. Mr. Krioutchkov's employment history reveals that he was initially selected as a P-2 Associate Translator in Nairobi and that, after the initial probationary period, he was automatically promoted to the P-3 level as per ST/AI/2000/1 without having gone through a competitive recruitment process with respect to his P-3 position. He, therefore, could not have been placed on any P-3 roster to be used for recruitment following the advertisement of a job opening. Mr. Krioutchkov has himself stated that he was prevented from being rostered for a P-3 Russian translator post. This shows that he understood that he did not have membership in the P-3 roster and understood how a roster functions in a selection process following the advertising of a job opening.

21. According to the Secretary-General, Mr. Krioutchkov has not demonstrated that the Administration had an obligation to inform him of his removal from the roster. This is a new ground of appeal which was not part of his case before the UNDT. Even if his claim were to be considered, his employment record illustrates that his claim of “not being notified about his removal from roster” does not have any merit. Under ST/AI/2000/1, after an initial probationary period, the roster candidate is either provided with a permanent appointment and

promotion to P-3 level, or provided with an extension of the probationary period, or separated from the Organization. Mr. Krioutchkov was promoted to P-3 after the initial probationary period, which should have naturally put him on notice that he was removed from the P-2 roster.

22. In addition, the Secretary-General contends that Mr. Krioutchkov has not demonstrated that the UNDT erred in finding that the removal from the roster was lawful. The UNDT correctly found that the provisions of ST/AI/2000/1 and ST/AI/2010/3 make it clear that roster membership is not indefinite. Rosters are tools to facilitate recruitment and selection. The UNDT correctly held that Mr. Krioutchkov was lawfully screened out from the recruitment process, as the advertised JO was limited to roster candidates, and Mr. Krioutchkov was not part of the relevant roster.

23. Furthermore, it is the Secretary-General's view that Mr. Krioutchkov has not demonstrated that the Administration's removal practice was discriminatory. He may only challenge a specific administrative decision and not a general administrative practice. Further, Mr. Krioutchkov is already on the P-4 roster and has had the opportunity to apply and be shortlisted for promotion which would provide him mobility. He cannot anticipate that he would not meet the eligibility requirements for the P-5 level when he is still, as of yet, at the P-3 level and may have future opportunities for lateral moves, prior to applying for P-5 level positions. As stated in his application, he has served at three different duty stations, and has "been consistently rostered for P4 promotion since 2008". Mr. Krioutchkov may have already met part of the mobility requirements, and it is up to him to prevail upon himself to apply for other promotion opportunities.

24. Lastly, the Secretary-General claims that Mr. Krioutchkov has failed to demonstrate that there was a lack of transparency in the recruitment process with respect to eligibility requirements as he claims that the Administration has modified the eligibility criteria without informing staff members. Mr. Krioutchkov has not identified any error of the UNDT's Judgment on questions of fact or law, but only repeats the arguments submitted before the UNDT. The Appeals Tribunal has held that it is not sufficient for an appellant to state that he or she disagrees with the outcome of the case or repeat the arguments submitted before the Dispute Tribunal. Further, the Administration did not alter or modify the eligibility criteria but rather correctly applied the legal framework that had been in place for many years.

25. The Secretary-General requests the Appeals Tribunal to affirm the Judgment and to dismiss the appeal.

Considerations

26. It is the second time that the Appeals Tribunal has examined this case. The first UNDT judgment was vacated following an appeal filed by the Secretary-General. In its first judgment, the Appeals Tribunal ordered remand to the Dispute Tribunal for a full consideration of its merits by another Judge. After having found that there was no mention in the legal provisions as to whether it was fair and transparent to limit professional language posts to candidates on a roster only, the Appeals Tribunal made the following considerations on remand:¹

... The Secretary-General essentially argues that, in accordance with the provisions of ST/AI/2000/1, JO 39481 was only open to candidates available for placement from the existing Russian language exam roster. As a result, Mr. Krioutchkov's application could not be considered because he was already at the P-3 level and could no longer be placed on the roster.

... However, a very important limb of Mr. Krioutchkov's submission is the allegation that the Administration has a "practice" of removing successful candidates from the roster of eligible candidates following their assignment to a post without any sound legal principle or rule. He submits that there is no indication in ST/AI/2000/1 that successful candidates can or ought to be removed from the roster once assigned to a post, and that there is no condition in law which restricts the possibility for reassigning current staff members to similar posts. He argues that to the contrary, Section 2.2 of ST/AI/2000/1 provides for the possibility of reassignment to language posts at other duty stations.

... This issue is critical in determining whether the process which was adopted by the Administration is unlawful or lacks transparency, and also, whether Mr. Krioutchkov's claim is valid. There is no evidence to suggest that the issue was given full consideration at the hearing before the UNDT, or that the factual and/or legal basis for this approach by the Administration was properly examined by the UNDT.

... The UNDT considered the Secretary-General's argument that ST/AI/2000/1, which governs the recruitment for special language posts, did not require a vacancy announcement in the first place, and found that since the Administration had elected to issue a JO, it was bound by the tenets of transparency and fairness. We wish to

¹ *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-920, paras. 23-28.

emphasize that it is important in instances where there is a vacancy notice which targets a specific pool of candidates from a roster that the vacancy notice make specific mention to the effect that consideration will only be given to rostered candidates to fill the position.

... The Secretary-General further argues that Mr. Krioutchkov had no chance of being selected for the P-3 position and that since the position was not a promotion but a lateral move with no increase in earnings, his non-selection had no impact on his career development. The Secretary-General submits that the UNDT appeared to be applying a requirement of ST/AI/2010/3 that a staff member in the Professional category have lateral moves prior to promotion to the P-5 level. Section 6.3(d) of ST/AI/2010/3, however, expressly waives the requirement for lateral moves for “staff serving against language positions that are subject to the provisions of the administrative instruction setting out special conditions for recruitment or placement of candidates successful in a competitive examination for positions requiring special language skills when applying for another such language position”. Thus, Mr. Krioutchkov being on a language post governed by ST/AI/2000/1 did not have a lateral move requirement. The Secretary-General is correct in his assertion. However, we note that this is true only in so far as he applies to other “such language position[s]”. It is unclear whether the Administration would require Mr. Krioutchkov (or any staff member in a similar position) to have lateral moves prior to applying to a non-language P-5 position.

... The need for the factual determination of all of the evidence related to the roster, placement, and removal of candidates requires that the instant case be remanded to the UNDT for a rehearing pursuant to the provisions of Article 2(3) of the Statute of the Appeals Tribunal.

27. On remand, the UNDT found that a language competitive examination roster fulfills its role upon the selection of a rostered candidate and that no rule provides for the ultra-activity of the roster, which is a temporary pool of candidates who can potentially cover needs of the Organization and satisfy the interest of suitable candidates to be recruited without a new competitive process being undertaken or submitted to. For the UNDT, the language competitive examination roster “ends its function” once the candidate has been recruited.²

28. In the present appeal, the critical issue for consideration is thus whether the UNDT erred when it found that Mr. Krioutchkov’s removal from the selection process under JO 39481 was lawful. As discussed, this removal from the roster had the consequence of preventing Mr. Krioutchkov from being evaluated for the position.

² Impugned Judgment, para. 22.

29. In his appeal, Mr. Krioutchkov maintains that the UNDT's finding that Section 2.2 of ST/AI/2000/1 allows for the removal of candidates from a language roster once they are reassigned to another duty station is incorrect. He also claims that there was nothing in the applicable law that provided for the possibility of removing successful candidates from language rosters. Moreover, there is a clear possibility of reassigning current staff members to other language posts during the trial period, providing that this is in line with the needs of the Organization.

30. Administrative Instruction ST/AI/2000/1, as amended by ST/AI/2003/1, about the Special conditions for recruitment or placement of candidates successful in a competitive examination for posts requiring special language skills, found by the previous Appeals Tribunal's Judgment to be the applicable legal framework governing the selection process for JO 39481³, provides in the relevant part of its Section 2 on the *Conditions applicable to all candidates successful in a competitive language examination*, that:⁴

2.1 Candidates successful in a competitive language examination shall be placed on a roster. They shall be selected from the roster as vacancies occur, taking into account the needs of service and the combination of languages and skills offered by individual candidates.

2.2 *After recruitment or placement against a Professional language post, candidates successful in a competitive language examination are expected to serve for at least five years in language posts*, provided they complete successfully their probationary or trial period, as appropriate, in accordance with sections 3.4, 4.4 and 4.5 of the present instruction, *before they may be assigned to, or selected for, a post other than a language post*. During that period, they may be reassigned to language posts at other duty stations according to the needs of the Organization.

2.3 Staff initially selected for language posts located away from Headquarters shall normally spend the first six months of their appointment in the appropriate service at Headquarters for training purposes.

³ *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-920, para. 21.

⁴ Emphases added.

31. It follows that, once a candidate has been recruited or placed against a Professional language post, provided they pass the trial period, they are expected to remain in language posts for at least five years, during which time they may be reassigned to other language posts, according to the needs of the Organization. The five-year gap is generally required before the selected candidate may be selected for a post other than a language post.⁵

32. There was indeed nothing in the applicable law in force at the time of the events that could underpin the Administration's undisputable continuous practice of removing the candidates' names from the language roster once they had been recruited or placed against a position. Nor is there any condition (other than the Administration's needs) restricting the possibility for reassigning current staff members to similar language posts, after they have been recruited or placed against a Professional language post.

33. The removal of the candidate from the roster would, therefore, prevent the Administration from evaluating and eventually reassigning or selecting a candidate to a similar post in another duty station. In the case at hand, the removal had the consequence of excluding Mr. Krioutchkov's candidature to a similar post to his, as indicated in JO 39481, in another duty station (Nairobi), simply because he was no longer rostered.

34. It could be argued that the removal from the roster upon selection of a candidate to a particular language position was later in part provided for by Administrative Instruction ST/AI/2020/3 (Competitive examinations for recruitment against or placement in language positions at the P-2 or P-3 level) which entered into force on 10 July 2020 and supersedes ST/AI/2000/1 and ST/AI/2003/1. Section 5.3 of ST/AI/2020/3 states:⁶

5.3 Candidates who are successful in more than one competitive examination for recruitment against or placement in language positions are placed in all relevant rosters. *When selected from a roster, they will cease to be in the roster from which they have been selected. However, they will remain part of all other rosters from which they have not yet been selected.*

35. While this provision could well serve as a reference of what was intended by the previous ST/AI (and seemingly interpreted as such by the UNDT), it was obviously not applicable at the time and thus cannot be invoked as valid grounds of reasoning for the

⁵ This five-year window might be a minimum requirement to compensate for the six-month training period in the Headquarters provided by Section 2.3 of ST/AI/2000/1.

⁶ Emphasis added.

present case.⁷ Moreover, if the then usual practice had to be in part endorsed by way of ST/AI/2020/3, it is natural to conclude that such an express authorization was necessary in order for this practice to be considered lawful, particularly in light of its significant impact on Mr. Krioutchkov's appointment, with the consequence of barring him from being reassigned for future language positions, according to the needs of the Organization.

36. It follows that the practice at that time, even though now partially legalized by the current Administrative Instruction, was not supported by the applicable legal framework at the time of the events and was, therefore, unlawful.

37. An additional noteworthy circumstance can be found in the present case. It is Mr. Krioutchkov's contention that he had never been informed of this practice of exclusion, nor had he been informed of the removal of his name from the language staff roster, or even of his ineligibility to apply to entry-level language posts at the P-2 or P-3 level. The Secretary-General rejects this argument, stating that, because Mr. Krioutchkov was already positioned at the P-3 level, it could not have had any negative impact on his career development. This reasoning is, however, erroneous. Because of the cases dealt with by this Appeals Tribunal, it is aware of the fact that Mr. Krioutchkov has been continuously applying for different positions outside of his current base of Bangkok. Although he currently holds a P-3 post, it might well be possible that he would be willing to be reassigned to, or selected for, a post at the same level in another duty station. As stated in his appeal, Mr. Krioutchkov's removal from the roster adversely impacted his potential ability for mobility and for obtaining additional incentives related to such mobility.

38. Furthermore, as found by the UNDT in its first judgment, there was no indication in the job opening which would make it clear that only roster candidates were eligible.⁸ This practice did not meet the principles of transparency and access to information, which allow for openness, accountability and good governance, which are the overarching values of this Organization.⁹ The Appeals Tribunal has already stated in its previous Judgment that "it is important in instances where there is a vacancy notice which targets a specific pool of

⁷ Even if ST/AI/2020/3 were applicable to the present case, it is clear that it only permits the removal from the roster from which the candidate has been selected. They remain, however, part of all other language rosters from which they have not yet been selected. The current legal framework appears to have reached some balance between the needs of the Organization and the interests of its staff members.

⁸ *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. UNDT/2018/093, para. 11.

⁹ *Utkina v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-524, para. 18.

candidates from a roster that the vacancy notice make specific mention to the effect that consideration will only be given to rostered candidates to fill the position”.¹⁰ Lack of transparency is harmful for both the Organization and its staff members. With transparency and clear information, trust and credibility are built up, in order to improve the work environment and professional relationships and efficiency.

39. Lastly, the Secretary-General claims that the argument that Mr. Krioutchkov had not been informed of his removal from the respective roster is a new ground of appeal that was not presented before, which is not permitted. Even assuming that this occurred, the truth is that this fact does not have any bearing on the outcome, as it is only a subsidiary argument which would only possibly have the impact of aggravating the circumstances in which the administrative decision was found to be unlawful. Likewise, the Secretary-General’s argument that Mr. Krioutchkov should have naturally received notice that he had been removed from the P-2 roster when he was promoted to the P-3 level seems to be inconsequential, to the extent that the impugned decision refers to JO 39481, which concerns a position at the P-3 level.

40. Having found that the removal of Mr. Krioutchkov from the language roster was unlawful, because it prevented his candidature for JO 39481 from being fairly assessed, the contested decision is accordingly rescinded. As an alternative to the rescission, the Appeals Tribunal shall now set compensation in lieu, as required by Article 9(1)(a) of its Statute.

41. In doing so, the Appeals Tribunal takes into consideration first the fact that the position Mr. Krioutchkov had applied for was at the same level as his current one, which is enough to conclude that there is no effect on his remuneration. Next, having weighed the impact on his mobility requirements and, as a consequence, on his potential career development within the Organization, the Appeals Tribunal finds it adequate to set the amount for compensation in lieu at the equivalent of two months’ net base salary.

42. Lastly, the Appeals Tribunal does not have competence to assess Mr. Krioutchkov’s general challenges to the Organization’s policy relating to reassignment processes. Rather, when it comes to appeals filed against judgments proffered by the UNDT in cases where an individual brings about an allegation of non-compliance with the terms of appointment or the contract of employment, as is the present case, the Appeals Tribunal’s competence is

¹⁰ *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-920, para. 26.

limited by its Statute to deal with the individual's particular case.¹¹ Although some judgments of the Appeals Tribunal may give guidance to the parties on some issues, they do not have the essence of a general policy.

¹¹ Appeals Tribunal Statute, Article 2(1). UNDT Statute, Article 2(1)(a).

Judgment

43. The appeal is granted and Judgment No. UNDT/2019/186 is vacated. The decision to remove Mr. Krioutchkov from the selection process for JO 39481 is rescinded. As an alternative to the rescission, the Secretary-General may elect to pay compensation in lieu at the equivalent of two months' net base salary, which shall be paid within 60 days from the date of the publication of this Judgment, during which period the US Prime Rate applicable as at that date shall apply. If the sum is not paid within the 60-day period, an additional five percent shall be added to the US Prime Rate until the date of payment.

Original and Authoritative Version: English

Dated this 30th day of October 2020.

(Signed)

Judge Halfeld, Presiding
Juiz de Fora, Brazil

(Signed)

Judge Knierim
Hamburg, Germany

(Signed)

Judge Raikos
Athens, Greece

Entered in the Register on this 18th day of December 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar