

UNDT/2010/208, Znamenski

UNAT Held or UNDT Pronouncements

The Tribunal found that there was no evidence that the transfer decision was arbitrary or based on improper motives. Administrative review/management evaluation: Requests for administrative review or management evaluation are mandatory first steps in the appeal process. In the case at hand, the only decision that was the subject of a request for management evaluation, and that is therefore properly before the Tribunal, is the decision to transfer the Applicant laterally from Cairo to Abu Dhabi. The Applicant's arguments regarding the unlawfulness of the decision to abolish his post and of previous reassignment decisions must fail since he did not formally contest these decisions through the appropriate procedure. Reassignments & Discretion of the Secretary-General: Staff regulation 1.2(c) gives the Secretary-General broad discretion in making reassignment decisions. Section 2.4 of ST/AI/2006/3 does not impose restrictions on such discretion in case of a lateral transfer. Notwithstanding, it has been consistently held that the Secretary-General's discretionary authority is not unfettered and must not be arbitrary and/or tainted by improper motives. Lateral transfers & staff selection procedures: ST/AI/2006/3 makes a clear distinction between a selection under the provisions of this instruction and an executive decision of lateral transfer (see for example section 4.2(c); paragraph 1 of annex I; and paragraph 1 of annex II). It results from such distinction that a head of department/office has the authority to transfer staff laterally within his or her department/office notwithstanding the procedures applicable under the new staff selection system. Put differently, in order to laterally transfer a staff member within a department/office, the head of that department or office does not have to apply the staff selection system.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to transfer him laterally from Cairo to Abu Dhabi, following the abolishment of his post in Cairo.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Znamenski

Entity

UNODC

Case Number(s)

UNDT/GVA/2010/094

Tribunal

UNDT

Registry

Geneva

Date of Judgement

1 Dec 2010

Duty Judge

Judge Laker

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Management Evaluation

Reassignment or transfer

Applicable Law

Administrative Instructions

- ST/AI/2006/3

Staff Regulations

- Regulation 1.2(c)

Related Judgments and Orders

2010-UNAT-021

2010-UNAT-049

2010-UNAT-053