

UNDT/2011/103, Kozlov & Romadanov

UNAT Held or UNDT Pronouncements

UNDT held that the Applicants may amend their request for compensation as, in Order No. 104 (NY/2011) specifically called for updated submissions on compensation, under which UNDT thus granted leave for the Applicants' amended submissions. UNDT denied the compensation request for loss of opportunity to pursue the new P-4 level post created in ORES, as the Applicants did not present any evidence supporting their contention that they were denied this opportunity. UNDT awarded compensation for loss of chance/opportunity. UNDT listed the following significant factors: (a) the existence of numerous procedural irregularities in this case; (b) the magnitude of the procedural irregularities, i.e., the fact that they were not mere technical breaches of the regulations and rules of the Organization; (c) the fact that one of the Applicants was, in fact, denied being selected for the Post; and (d) the fact that the circumstances of the case compelled the Tribunal to make a referral to the Secretary-General for accountability measures. UNDT awarded Applicant Romadanov compensation for moral injury, holding that he supplied the requisite evidence that would support such an award. UNDT did not award Applicant Kozlov compensation for moral injury, holding that he did not provide such evidence.

Decision Contested or Judgment/Order Appealed

The Applicants contested their non-selection for posts and requested compensation.

Legal Principle(s)

The purpose of loss of chance/opportunity compensation is to make reparation for procedural violations; therefore, notions of pecuniary, or economic, loss do not apply when determining loss of chance/opportunity compensation. While compensation for loss of chance/opportunity may be measured against contract benefits and emoluments (i.e., earnings), that measurement is for the sole purpose of determining an approximate value to be placed against loss of chance/opportunity. The calculation of loss of chance/opportunity compensation is not for the purpose of reimbursing for lost earnings.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Kozlov & Romadanov

Entity

DGACM

Case Number(s)

UNDT/NY/2010/019/UNAT/1622

Tribunal

UNDT

Registry

New York

Date of Judgement

20 Jun 2011

Duty Judge

Judge Kaman

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Non-pecuniary (moral) damages

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Administrative Instructions

- ST/AI/2002/4

UNDT Statute

- Article 10.5