

# UNDT/2016/013, Krioutchkov

## UNAT Held or UNDT Pronouncements

Starting date for time limits: Time limits must be counted from the moment all facts necessary to the commencement of the case were known, or at least should have reasonably been known .Publication of vacancies: The Administration is uncontestably required to announce existing and foreseeable vacancies to be filled. If more than one vacancy is to be advertised under the same JO, the JO in question needs to clearly indicate so. Non-retroactive application of the Statute's amendment: An amendment of the applicable rules cannot apply to an application filed prior to the entry into force of said amendment, and a change in rule cannot become binding before it is duly published.

## Decision Contested or Judgment/Order Appealed

The Applicant contested his non-selection, based on the non-advertisement of a second post under Job Opening ("JO") 12-LAN-UNOG-25120-R-Geneva (L), and the selection of a candidate without any competition under said JO. The Tribunal noted that the JO did not indicate in any manner that it covered more than one vacancy; hence, it concluded that the second post that was filled under this JO was effectively never advertised, which constitutes a serious procedural flaw. Accordingly, the Tribunal rescinded the decision, setting an alternative compensation of USD1000, and awarded USD4,000 to the Applicant as compensation for moral injury.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Both financial comp. and specific performance

Full judgment

[Full judgment](#)

Applicants/Appellants

Krioutchkov

Entity

ESCAP

Case Number(s)

UNDT/GVA/2014/57

Tribunal

UNDT

Registry

Geneva

Date of Judgement

24 Feb 2016

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Non-pecuniary (moral) damages

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/3

GA Resolutions

- A/RES/33/143
- A/RES/51/226

Other UN issuances (guidelines, policies etc.)

- Inspira Manual for Hiring Managers (Version 3.0)

Staff Rules

- Rule 11.2(c)

UNDT Statute

- Article 10.5(a)
- Article 10.5(b)

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2014/036

2011-UNAT-109

2012-UNAT-205

UNDT/2014/062

UNDT/2015/115

UNDT/2015/116

UNDT/2015/117

2012-UNAT-238

2013-UNAT-309

2014-UNAT-396

2014-UNAT-406

2014-UNAT-409

2014-UNAT-444