

UNDT/2016/051, Krioutchkov

UNAT Held or UNDT Pronouncements

The Tribunal determined that the matter put to it is the filling of a P-3 translator vacancy in RTS, UNOG, by a lateral transfer, under sec. 2.5 of ST/AI/2010/3, instead of through a competitive selection process, which would have then required the advertisement of a vacancy announcement for the concerned post on different grounds his non-selection for the post of Chief, Russian Translation Unit, UNON. This is a decision having direct effects on the Applicant's rights, hence appealable before the Tribunal. The Tribunal ruled that filling a vacancy through a lateral transfer of a staff member in the same unit and grade, without advertising the post does not per se violate the applicable legal framework. Direct legal effects: A decision to fill a given vacancy through a lateral movement has direct legal effects on the rights of potential candidates for the vacancy. First, it excludes the application of the set of rules that govern a competitive recruitment procedure; second, it renders ineligible any potential candidate who is not within the same unit and/or is not at the same level. Lateral transfer under sec. 2.5 of ST/AI/2010/3: Sec. 2.5 of ST/AI/2010/3 explicitly provides for the possibility of transferring staff members within their departments or offices to job openings at the same level without advertisement. This provisions does not contradict art. 101.3 of the UN Charter or staff regulation 4.2, nor General Assembly resolutions requesting the Secretary-General to publish vacancies.

Decision Contested or Judgment/Order Appealed

The Applicant challenges the decision not to evaluate/select him for a position of P-3 Russian Translator with UNOG.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Outcome Extra Text

Both financial compensation and specific performance

Full judgment

[Full judgment](#)

Applicants/Appellants

Krioutchkov

Entity

ESCAP

Case Number(s)

UNDT/GVA/2014/59

Tribunal

UNDT

Registry

Geneva

Date of Judgement

4 May 2016

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/3

GA Resolutions

- A/RES/51/226

Staff Regulations

- Regulation 4.2

Staff Rules

- Rule 11.2(c)

UN Charter

- Article 101.3

UNDT Statute

UNAT Statute

- Article 2.1(a)

Related Judgments and Orders

UNDT/2016/016

2012-UNAT-238

2010-UNAT-030

2013-UNAT-304

2012-UNAT-266

2013-UNAT-329

2010-UNAT-021

2014-UNAT-434