

2014-UNAT-468, Skourikhine

UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeal and Mr Skourikhine's cross-appeal. With respect to the Secretary-General's appeal, UNAT noted that there is no requirement in Section 9. 4 of ST/AI/2010/3 for the head of department to first review all non-rostered candidates, and it had even been amended to specifically remove such a requirement. UNAT found that UNDT erred in law in deciding that the appointment of the rostered candidates was contrary to ST/AI/2010/3, as the decision to do so was entirely within the Administration's discretion, and no abuse of that discretion has been demonstrated. With respect to Mr. Skourikhine's appeal, UNAT found that his contentions that UNDT failed to consider his arguments regarding the lack of experience of rostered candidates, that the decision not to select him had improper motives, and that a blacklist existed were without merit, as those issues were considered by the UNDT. UNAT held that there was no violation of Mr Skourikhine's due process rights and that the award of damages, including moral damages, in his favour could not be allowed to stand. UNAT upheld the Secretary-General's appeal, dismissed Mr Skourikhine's cross-appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Skourikhine contested the decisions not to select him for certain posts. For Job Opening No. 16337, UNDT found that Mr Skourikhine's claim was not receivable because it had not been subject to management evaluation. For Job Opening No. 17880, UNDT found that the Administration provided no valid reason justifying the cancellation of the vacancy and therefore found it illegal. UNDT also found illegal the Administration's selection of Mr Blokhine for Job Opening No. 20354 and its selection of Mr Bebenine for Job Opening No. 23895. UNDT ordered the rescission of the decision to select Mr Blokhine for Job Opening No. 20354 and Mr Bebenine for Job Opening No. 23895 or, in the alternative, payment of compensation for material damages. UNDT also awarded Mr Skourikhine moral damages.

Legal Principle(s)

The head of a department/office has the discretion to make a selection decision from candidates included in the roster and there is no requirement for the head of department to first review all non-rostered candidates.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Skourikhine

Entity

UNOG

Case Number(s)

2013-541

Tribunal

UNAT

Registry

New York

Date of Judgement

17 Oct 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)
Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Related Judgments and Orders

UNDT/2013/113

UNDT/2013/040

2014-UNAT-416