

2017-UNAT-712, Krioutchkov

UNAT Held or UNDT Pronouncements

On the amount of compensation in lieu of rescission, UNAT held that UNDT correctly applied Article 10(5) of the UNDT Statute. UNAT held that there was no fault with the UNDT's award of compensation of USD 2,000, noting that UNDT considered the chances of success as well as the difference of net base salary between the one Mr. Krioutchkov received at his current grade and step and his potential income as of the relevant date, limited the projection of the difference in salary to two years. UNAT held that absent any error of law or manifestly unreasonable factual findings UNAT would not interfere with the discretion vested in UNDT to decide on the amount of compensation. On moral damages, UNAT held that UNDT erred in law by not applying Article 10(5)(b) of the UNDT Statute as it existed at the time it rendered its judgment and awarding compensation in the absence of evidence of harm suffered. UNAT found that, as an award of damages takes place at the time the award is made, applying the amended statutory provision was not the retroactive application of the law. UNAT dismissed Mr. Krioutchkov's appeal, granted the Secretary-General's cross-appeal of the award of moral damages, and affirmed the UNDT judgment except for the award of moral damages, which was vacated.

Decision Contested or Judgment/Order Appealed

The Applicant contested his non-selection for a position. UNDT found the decision to be unlawful on the basis of several procedural irregularities. UNDT ordered the impugned selection decision to be rescinded or payment of in-lieu compensation and awarded moral damages.

Legal Principle(s)

Absent any error of law or manifestly unreasonable factual findings, UNAT will not interfere with the discretion vested in UNDT to decide on the amount of

compensation.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Krioutchkov

Entity

UNON

Case Number(s)

2016-947

Tribunal

UNAT

Registry

New York

Date of Judgement

31 Mar 2017

President Judge

Judge Raikos

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Evidence of harm

Staff selection (non-selection/non-promotion)

Selection decision

Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

UNDT Statute

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

Related Judgments and Orders

UNDT/2016/052