

2024-UNAT-1439-Corr.1, Egor Ovcharenko

UNAT Held or UNDT Pronouncements

The Appeals Tribunal found that the proportional adjustment of workload standards for self-revision services was a matter that fell squarely within the Administration's discretionary authority. The Appeals Tribunal was satisfied that the Administration followed all proper procedures when taking and implementing the contested decision, and the UNDT properly determined that there was no requirement for staff management consultations at the departmental or office level in relation to a specific appealable administrative decision.

The Appeals Tribunal dismissed the appeal and affirmed Judgment No. UNDT/2023/006.

Decision Contested or Judgment/Order Appealed

Mr. Ovcharenko, a Reviser at the P-4 Level in the Russian Translation Service, Documentation Division, Department for General Assembly and Conference Management, together with several other staff members of the Department, contested before the UNDT the "unilateral change in the individual workload standards for translation and self-revision" as decided by the Under Secretary-General of the Department.

The UNDT dismissed the applications finding them irreceivable *ratione materiae*, and upon remand by the UNAT, issued Judgment No. UNDT/2023/006 dismissing the application in its entirety on the merits. The UNDT found that the increase of the workload standard for self-revision was a lawful exercise of the USG/DGACM's discretionary authority.

Mr. Ovcharenko filed an appeal.

Legal Principle(s)

Where an issue has been decided in a final judgment, such issue becomes res judicata. It cannot be litigated again before the Tribunals. The principle of res judicata creates legal certainty and brings disputes already litigated to finality.

Contested decisions which are specific appealable administrative decisions, and which have a “tangible individual direct impact” for each affected staff member, constitute individual cases and therefore should not be normally subject to staff consultation.

The reassignment of staff members’ functions comes within the broad discretion of the Organization to use its resources and personnel as it deems appropriate.

The Administration has broad discretion to reorganize the operations and departments to meet changing needs and economic realities.

As a matter of law, an employment relationship creates mutual obligations between the employer and the employee. In this light, the principle governing the obligations of parties under an employment contract within the United Nations system is that of “shared responsibility”. This principle obliges the Administration and the staff member to take corresponding steps in the event of changes in the terms or conditions of the contract of employment. An employment contract of a staff member subject to the internal laws of the United Nations is not the same as a contract between private parties. An international organization necessarily has the power to restructure some or all of its departments or units.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Egor Ovcharenko

Entity

DGACM

Case Number(s)

2023-1796

Tribunal

UNAT

Registry

New York

Date of Judgement

21 May 2024

President Judge

Judge Forbang

Judge Ziadé

Judge Sheha

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discretionary authority

Discretion

Restructuring

Reassignment or transfer

Applicable Law

Other UN issuances (guidelines, policies etc.)

Secretary-General's bulletins

- ST/SGB/274

Staff Regulations

- Regulation 1.1(a)
- Regulation 1.2(c)
- Regulation 8.1

UN Charter

- Article 101.1

UNAT Statute

- Article 10.6

Related Judgments and Orders

2024-UNAT-1414

2015-UNAT-503

2010-UNAT-084

2017-UNAT-759

2021-UNAT-1169

2011-UNAT-120

2023-UNAT-1359

UNDT/2021/084

2023-UNAT-1357

2022-UNAT-1262

UNDT/2023/006