

UNDT/2024/102, Rodriguez Breuning

UNAT Held or UNDT Pronouncements

Receivability

The Applicant correctly submitted that he was not contesting the promulgation of the Mobility AI. It was clear from the content of the application that he did not challenge the existence of the Mobility AI as a regulatory decision of the Secretary-General affecting all staff members. Instead, he was contesting the impact of what he perceived as a specific decision made after he accepted the offer of appointment, i.e., that the Mobility AI would be a term of his employment contract. The Tribunal thus found the application receivable.

Merits

The Tribunal established that the Applicant was duly informed, before accepting the offer letter, of the mandatory nature of the condition of mobility in his proposed employment. However, even if mandatory mobility had not been so explicit in the pre-appointment documents, the regulatory framework stipulates at staff rule 4.1 that it is the letter of appointment (LOA) that contains expressly or by reference the terms and conditions of employment.

The Applicant's signed endorsements to his offer letter and his LoA together reflected his constructive knowledge of all applicable Staff Regulations and Rules and administrative issuances. His letter of offer indicated expressly that his terms and conditions included this regulatory framework. Thus, the Applicant should have known that his employment was subject to the aforementioned provisions, which included the Mobility Administrative Instruction (Mobility AI) that came into effect before he signed the LoA in November 2023.

The Tribunal thus concluded that, in all circumstances, the Applicant had failed to demonstrate any unlawful factor in the decision that confirmed him as subject to Mobility AI.

Accordingly, the Tribunal decided to deny the application in its entirety.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision to subject him to mandatory mobility.

Legal Principle(s)

Pursuant to the settled jurisprudence of the Tribunal, the legal act by which the Organization undertakes to employ a person as a staff member, is not the offer letter, but a letter of appointment signed by the Secretary-General or an official acting on his behalf.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Rodriguez Breuning

Entity

UNOV

Case Number(s)

UNDT/GVA/2024/013

Tribunal

UNDT

Registry

Geneva

Date of Judgement

2 Dec 2024

Duty Judge

Judge Honeywell

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Applicable Law

Administrative Instructions

- ST/AI/2023/3 on Mobility

Staff Regulations

- Regulation 1.2(c)

Staff Rules

- Rule 4.1
- Rule 4.2

Related Judgments and Orders

2024-UNAT-1464

2015-UNAT-555

2010-UNAT-029

2011-UNAT-120

2017-UNAT-762

2011-UNAT-122

2010-UNAT-084

2010-UNAT-009

2018-UNAT-840

UNDT/2024/096