

JUDGE MARTHA HALFELD

6. The Secretary-General

10. The Secretary-General responded to the above-mentioned Order and Mr.

status and ineligibility to apply to entry-level language posts (i.e. P-2 and P-3). This aspect is directly relevant to the lawfulness of the contested decision as it reflects a failure to abide “by the tenets of transparency and fairness”.

15. Mr. Krioutchkov further contends that the UNDT erred in finding that there was a legal basis for roster membership removal. The only legal basis that the UNDT identified for removing successful candidates from language roster was Section 2.2 of ST/AI/2000/1 which provides that it is possible to reassign staff to language posts at other duty stations according to the needs of the Organization. This possibility is not however specific to language posts. It is common to all international staff positions within the United Nations and may therefore not constitute a proper basis for treating language rosters differently. Moreover, language staff may not exclusively rely on the Administration’s willingne

18. Mr. Krioutchkov asks that the Appeals Tribunal vacate the UNDT Judgment; rescind the contested decision and set a reasonable amount of compensation in lieu of rescission.

T e S e c e a - G e e a A e

19. The Secretary-General argues that the UNDT correctly concluded that language roster membership ends upon placement on a language post and that Mr. Krioutchkov was correctly screened out. The UNDT correctly interpreted the legal framework of ST/AI/2000/1 and ST/AI/2010/3, and further applied the witness testimony by the Administration, to conclude that “unless otherwise expressly provided, language roster membership ends upon placement against a language post”. In the absence of an express provision in ST/AI/2000/1 regarding the duration of roster membership, the UNDT correctly took into account the witness testimony by the Administration, in which the Human Resources Officer clearly stated that the Administration removes successful candidates from language rosters once selected for a post and that ST/AI/2000/1 does not pro

promotion to P-3 level, or provided with an extension of the probationary period, or separated from the Organization. Mr. Krioutchkov was promoted to P-3 after the initial probationary period, which should have naturally put him on notice that he was removed from the P-2 roster.

22. In addition, the Secretary-General contends that Mr. Krioutchkov has not demonstrated that the UNDT erred in finding that the removal from the roster was lawful. The UNDT correctly found that the provisions of ST/AI/2000/1 and ST/AI/2010/3 make it clear that roster membership is not indefinite. Rosters are tools to facilitate recruitment and selection. The UNDT correctly held that Mr. Krioutchkov was lawfully screened out from the recruitment process, as the advertised JO was limited to roster candidates, and Mr. Krioutchkov was not part of the relevant roster.

23. Furthermore, it is the Secretary-General's view that Mr. Krioutchkov has not demonstrated that the Administration's removal practice was discriminatory. He may only challenge a specific administrative decision and not a general administrative practice. Further, Mr. Krioutchkov is already on the P-4 roster and has had the opportunity to apply and be shortlisted for promotion which would provide him mobility. He cannot anticipate that he would not meet the eligibility requirements for the P-5 le

25. The Secretary-General requests the Appeals Tribunal to affirm the Judgment and to

emphasize that it is important in instances where there is a vacancy notice which targets a specific pool of candidates from a roster that the vacancy notice make specific mention to the effect that consideration will only be given to rostered candidates to fill the position.

... The Secretary-General further argues that Mr. Krioutchkov had no chance of being selected for the P-3 position and tha

29. In his appeal, Mr. Krioutchkov ma

present case. Moreover, if the then usual practice had to be in part endorsed by way of ST/AI/2020/3, it is natural

candidates from a roster that the vacancy notice make specific mention to the
that consideration will only be given to rostered candidates to fill the position". °

limited by its Statute to deal with the individual's particular case. Although some judgments of the Appeals Tribunal may give guidance to the parties on some issues, they do not have the essence of a general policy.

¹¹ Appeals Tribunal Statute, Article 2(1). UNDT Statute, Article 2(1)(a).

J d g e

43. The appeal is granted and Judgment No. UNDT/2019/186 is vacated. The decision to remove Mr. Krioutchkov from the selection process for JO 39481 is rescinded. As an alternative to the rescission, the Secretary-General may elect to pay compensation in lieu at the equivalent of two months' net base salary, which shall be paid within 60 days from the date of the publication of this Judgment, during which period the US Prime Rate applicable as at that date shall apply. If the sum is not paid within the 60-day period, an additional five percent shall be added to the US Prime Rate until the date of payment.

Original and Authoritative Version: English

Dated this 30 day of October 2020.

(Signed)

Judge Halfeld, Presiding
Juiz de Fora, Brazil

(Signed)

Judge Knierim
Hamburg, Germany

(Signed)

Judge Raikos