

1. The Applicant's (USSIAN Translation) 'P3,' (USSIAN -language Unit' Con en&e and Documentat ion .e)/&es .e&t ion' O&onom& and .o&a\$ Comm ssion o) As&a and t'e Pa& %&' &ontests "s non+se&e&t ion' lased on t'e non+ad/e)t sement o a se&ond #ost unde) Jo1 2#en ng *3J24, 12+ - AN+UN2G+ 25120+(+Gene/a *-,' and t'e se&e&t ion o a &and idate 5't'out an& &om#et it ion unde) sa id J2.

2. As remedies' 'e) e7uests to le a oded 3t'e UN o1\$ gations o good a&t' and due #)o&ess n t'e us\$ and a&) &ons ide)at ion4 o "s &ase' as 5e\$ as an&)e\$e &ustoma)6 n su&' n stan&es at t'e d is&)et ion o t'e T)1una\$.

3. 2n 14 .e#tem1e) 2012' a /a&a n&6 o) a #ost o (USSIAN (e/ se) *P4,' (USSIAN Translation .e&t ion *3(T.4,' D/ s ion o Con en&e 8 anagement *3DC 84,' United Nations 2 %&e at Gene/a *3UN2G4,' 5as ad/e)t s ed unde) J2 12+ - AN+UN2G+25120+(+Gene/a *- , *J2 25120,. T'e dead\$ line o) a##\$&at ions 5as 20 No/ em1e) 2012. T'e Jo1 2#en ng *3J24,)ead' inter alia9

This post is \$o&ated n t'e : (T. ; n t'e :DC 8 ;

<

t'e (e/ se) 5\$ le)es#ons1\$e o) t'e o\$so5 ng duties9 < *em#"as added,

4. T'e (es#ondent &\$a ms t"at' s n&e its n n t a\$ n t)odu&t ion n t'e =ns#)a s6stem' t'e &o)es#ond ng J2 &on&)ed t5o %dent&a\$ #osts9 one to le&ome /a&ant on 1 De&em1e) 2012' and t'e ot'e) on 1 August 2013. T'e J2 d id not %nd&ate t"at t&on&)ed t5o #osts.

5. T'e Applicant a##\$ed on 24 .e#tem1e) 2012. 2ut o 40 a##\$&ants' %/e 5e)e s&)eened as e\$g1\$e9 t5o)om t'e)oste) o #)e+se&e&t ed &and idates o) s m\$)a) #os t ions > .e.' t'e Applicant and one ot'e) &and idate > and t')ee

Case No. UNDT/GVA/2014/057

Judgment No. UNDT/2016/013

12. On 16 March 2014, the Respondent's human resources manager (the "HR Manager") advised the Applicant that the Applicant's second round of selection on the same day seemed to have taken place without advertising and as a result of the Applicant's advertisement in January 2013. The Applicant's advertisement was published in the P+3 posts section of the recruitment notice in the same year.

13. In response on 5 March 2014, the HR Manager advised the Applicant that the UN2G position was associated with the J2 position at 3107 posts. The Applicant was advised as a result of the selection process that 16 J2 25120 positions were available: the Applicant was advised that there was no second round of selection.

14. On 28 August 2014, the Applicant requested management evaluation of the decision on the selection of the second candidate on the J2; 12+ - AN+UN2G+25120+ (GONOVA *- ,4. The decision was issued 16 days later dated 28 August 2014 on the Candidate's management evaluation on 16 August of the Applicant's Genea.

15. The Applicant filed his application on 1 July 2014. He requested that the Administration disclose to him the content of the selection dossier of the position.

16. The Applicant filed his application on 20 August 2014, which is a number of annexes submitted ex parte.

17. B6 (2) de No. 133 *GVA/2014, of 22 August 2014, the Applicant was given access to the documents' identified as determined 16 days later the Tribunal and upon the Tribunal's instructions, the Applicant's comments on the Applicant's application and annexes were filed on 4 September 2014.

18. Pursuant to (2) de No. 145 *GVA/2014, of 18 September 2014, the Applicant's additional information on 3 September 2014, including the ex parte documents. The Applicant made comments on his application on 16 September 2014.

1A.

1. Using one J2 to &o/e)t\$6 se\$e&t &and%dates o) t5o o) mo)e #osts %nstead o &ondu&t%ng se#a)ate t)ans#a)ent se\$e&t%on #)o&esses #)e/ents &and%dates)om a##\$6%ng and \$%m%ts t"e se\$e&t%on o &and%dates' %n 1)ea&" o t"e #)%n&%#ses o a)t. 101.3 o t"e C"a)te) and sta)egu\$ation 4.2. A\$so' se/e)a\$ Gene)a\$ Assem1\$6)eso\$ut%ons)e7u%e t"e announ&ement o 3a\$\$ eG%st%ng /a&an&%es4' su&" as A/(0 ./33/143 and A/(0 ./51/226)

&. =n &ont)ad%t%on to t"e mo1%%t6)e7u%ement #)o&\$a%med 16 t"e Gene)a\$ Assem1\$6 *A/(0 ./53/221, ' a\$\$ P+3 and P+4 #)omotions o) (us\$%an t)ans\$ato)s 5e)e' o/e) t"e \$ast 25 6ea)s' done st)%&t\$6 5%t"%n t"e same se)/%&es/un%ts at a\$\$ dut6 stations 5"e) (us\$%an t)ans\$ation and \$anguage se)/%&es/un%ts eG%st *%.e.' %n Gene/a' Na%)o1% Ne5 Jo)C' BangCoC and V%enna,D

d. T"e A##\$%&ant "as o/e) 30 6ea)s o #)o ess%ona\$ eG#e)%en&e as a (us\$%an t)ans\$ato) *24 6ea)s 5%t"%n t"e UN s6stem, 5%t" an eG&e\$sent

a\$\$ P+3 (us\$ian t)ans\$ato) #osts 5 e)e %\$\$ed 5 %t"out a &om#et%t%/e se\$e&t%on
#)o&essD

I. The 5 as a separate e/a\$uation #)o&ess o) t"e se&ond *non+ad/e)t%sed, #ost' %n 5 "%&" t"e A##\$%&ant 5 as not a\$\$o5 ed to #a)t%&#ate. T"e A##\$%&ant 5 as %nte)/%e5 ed 16 t"e C"%e ' (T.' UN2G' a\$one on 1! De&em1e) 2012D \$ate)' on 1 @e1)ua)6 2013' t5o ot"e) &and%dates > %e.' t"e se\$e&ted &and%date' 5 "o 5 as #e/%ous\$6 1ased %n Gene/a and 5 as not)oste)ed' and a Ne5 Jo)C+1ased P+4 (uss%an)e/%se) > 5e)e %nte)/%e5 ed 16

m. The Applicant has not informed about the composition of the Panel "and" the Panel did not discuss its composition. The Panel that conducted the interview of the Applicant on 11 October 2013 did not include an independent member of the Panel to ensure objectivity.

n. The evaluation of the Applicant has not included the relevant factors to assess the Applicant's language skills as languages and English.

o. (Including a "no" as undergone) rigorous evaluations' found suitable and posted so many times de facto the number of the posted articles. No independent member would be used to assess the Applicant. The Applicant's language demonstrated fluency and fluency in the Applicant.

#. The Applicant's constant and repeated suspension in the period since 2001 included a legitimate evaluation of being promoted to a P-4 post in a reasonable time frame. The Applicant's suspension in the period since 2001 was a reasonable time frame.

26. The (essential) contentions are

a. The Applicant's alleged rationale materiae. The issue of the contents of the J2 and the alleged non-adherence to the second post do not constitute an administrative decision of the Applicant. The alleged non-adherence to a post did not affect the Applicant's rights.

1. The Applicant's alleged rationale temporis. The Applicant has argued that the selection process was flawed and that the "ad hoc" selection of the Applicant on 23 August 2013. The Applicant requested management evaluation on 2 August 2014 "at least" more than ten months later and five years beyond the period of the selection process. The Applicant stated that the selection process was flawed and that the Applicant was promoted in January 2013. The Applicant's promotion to the P-4 post in January 2013 was a reasonable time frame. The Applicant's promotion to the P-4 post in January 2013 was a reasonable time frame.

establishment and terms of the... As so the... at the... to be...
... T/A=2010/3... un... d...)

"... The... and... as not demonstrated an... u... a... and an...
... a... m...)

Applicant's motion for an additional hearing

27. On 27 December 2015 the Applicant... an additional... hearing...
... to... as... witnesses... the... assessment... of... the...
... host.

28. It should be... that... the... of... the... u...

Case No. UNDT/GVA/2014/057

Judgment No. UNDT/2016/013

a) 10.5, on its date, the Tribunal's findings on a contested administrative decision regarding the amount of compensation that the respondent made to the claimant.

41. There is no set-off of the Tribunal to determine the amount of such compensation but it must be assessed based on the circumstances of each case. See Sprauten 2012+UNAT+21A. Considering that the Tribunal assessed the Applicant's claims on the second position to be valid. See e.g. Friedermayr 2015+UNAT+603. Given that a finding of one of the alleged irregularities of the first post and deemed not suitable for the purposes of the second position at the time of the second position as evidenced by the fact that the second position was recommended. In the circumstances, it is reasonable to assume that the Applicant had a claim of such nature.

4A. In these grounds, the Tribunal sets at USD 1'000 the amount of compensation in lieu of pension. This amount takes into account the Applicant's claim of such nature as well as the difference of net base salary between the two

51. As stated in para. 46 above, the violation of the Applicant's terms of appointment in the present case was indeed fundamental and grave and necessitated the entire re-education (see e.g. *hao huang* & *ie UNDT/2014/036*; *arrimond UNDT/2014/062*). Consequently, the Tribunal does not evaluate the respondent's moral damage to be allocated as compensation on this account.

52. *Hristova*, 10.5.1, of the Tribunal's Statute was amended after the *Asariotis* (U.S.) decision to state that such "damages" must be substituted for the respondent's amendment does not apply to the instant case (16 June of the Geneva) (see the *repealed* *u"ed* 16 the *Appellant's* 1a)ing the *et* *o* *u* *es* *Robineau* 2014+UNAT+3A6' *ogueira* 2014+UNAT+40A' *unt* *Matthes* 2014+UNAT+444, indeed, the applicant's action under article 5 as set on 11 June 2014. Since the amendment in question was adopted on 11 December 2014, 16 Geneva Assembly resolution 6A/203' and did not enter into force until its adoption on 21 January 2015 (*Ademagic et al.* UNDT/2015/115' *Sutherland et al.* UNDT/2015/116' *weatherstone UNDT/2015/117*).

53. In view of the ongoing Tribunal's DOC-D0.9

a. The contested decision to set a second position under J2 12-AN+UN2G+25120+ (Geneva *- , is "e16)es&nded)

1. . "ould the (applicant's) to a6 *nan&a* & compensation instead of *et*/*es* *es&nding* the decision' the Applicant's "a" be the sum of U.D1'000 as an *ate* *nat*/*e*)

&

