

Case No.:

UNITED NATIONS DISPUTE TRIBUNAL

6. On 7 November 2012, the respondent and the complainant agreed to transfer the ownership of the shares in the company to the complainant and to the respondent on 15 January 2013.

7. As a result of the agreement, the respondent transferred the shares in the company to the complainant on 15 August 2014, and the complainant transferred the shares in the company to the respondent on 2 September 2014.

8. The complainant requested management of the shares in the company on 1 September 2014. The respondent, however, refused to do so, and the complainant requested the respondent to do so on 2 September 2014.

9. The respondent's refusal to do so was based on the fact that the complainant had not provided the necessary documents to the respondent. The respondent's refusal was based on the fact that the complainant had not provided the necessary documents to the respondent.

10. Pursuant to articles Nos. 122 and 176 of the Law of 1 June 2015 (No. 176) and articles 21 and 20 of the Law of 22 September 2015 (No. 22), the respondent and the complainant agreed to transfer the shares in the company to the complainant and to the respondent on 15 August 2014 and 2 September 2014, respectively. The respondent's refusal to do so was based on the fact that the complainant had not provided the necessary documents to the respondent.

11. In article 4 of the Law of 2 August 2016 (No. 4), the respondent's refusal to do so was based on the fact that the complainant had not provided the necessary documents to the respondent.

Case No. UNDT/GVA/2015/074

Judgment No. UNDT/2016/070

§§. The (e)ated (e)uest fo(management e0a#uat\$on 8as not
su5m\$tted 8\$t!\$n t!e "(es%(\$5ed t\$me #m\$ts. A#t!oug! t!e A""#\$%ant
!o#ds t!at !e #ea(ned a5out t!e d\$s"uted t(ansfe(\$n August/-e"tem5e(
2014& !e !ad 5een \$nfo(med a#(ead1 \$n Ee5(ua(1 2014 51 @ ' 2 -&
UN3G& t!at .6d7u(\$ng 201 on#1 one P* "os\$t\$on \$n 6' T-7 8as f\$##ed
as a (esu#t of #ate(a# (eass\$gnment 8\$t!\$n de"a(tment/. G!\$#e t!e
A""#\$%ant f\$#ed ot!e(a""#\$%at\$ons a(\$\$ng f(om t!e same
%o((es"onden%e on#1 \$n Ju#1 2014& !e (e)uested management
e0a#uat\$on of t!e matte(at !and \$n -e"tem5e(2014& \$.e.& nea(#1 se0en
mont!s afte(t!e Ee5(ua(1 2014 %ommun\$at\$on. T!e A""#\$%ant !as
engaged \$n a %ons\$tent "atte(n of 5e!a0sou(of %a\$m\$ng t!at !e 8as
una8a(e of t!e out%ome of "ost\$ng de\$\$s\$ons& 8 !en \$n fa#t !e 8as

5. 3n t!e me(\$ts& unde(se%. .2)#+ of -T/A9/2010/ & #ate(a# t(ansfe(s a(e
e;em"t f(om t!e staff se#e%t\$on s1stem& \$n%#ud\$ng t!e %ondu#t of .e0a#uat\$on
a%t\$0t\$es/ su%! as a 8(\$tten assessment and a %om"eten%1*5ased \$nte(0e8B

%. 2 o(eo0e(k se%. .2)e+ of t!e same \$nst(u%t\$on e;%#udes f(om \$ts s%o"e
of a""#\$%at\$on& t!e .6m7o0ement du(\$ng t!e f\$(st f\$0e 1ea(s of se(0\$e of staff
se(0\$ng aga\$nst a P*2 o(P* #anguage "os\$t\$on 8!o a(e su5(ect to t!e
"(o0s\$ons of t!e admn\$st(at\$0e \$nst(u%t\$on sett\$ng out s"e%a# %ond\$ts\$ons fo(
(e%(u\$tment o("#a%ement of %and\$dates su%%essfu# \$n a %om"et\$0e
e;am\$nat\$on fo("os\$t\$ons (eAu\$(ng s"e%a# #anguage s4##s/. 9n t!s
%onne%t\$on& se%. 2.2 of Admn\$st(at\$0e 9nst(u%t\$on -T/A9/2000/1)- "e%a#
%ond\$ts\$ons fo((e%(u\$tment of "#a%ement of %and\$dates su%%essfu# \$n a
%om"et\$0e e;am\$nat\$on fo("osts (eAu\$(ng s"e%a# #anguage s4##s+
"(o0des t!at du(\$ng t!e(f\$(st f\$0e 1ea(s of se(0\$e& #anguage %and\$dates
su%%essfu# \$n a %om"et\$0e #anguage e;am\$nat\$on .ma1 5e (eass\$gned to
#anguage "osts at ot!e(dut1 stat\$ons a%o(d\$ng to t!e needs of t!e
3(gan\$fat\$on/. Eu(t!e(mo(ek "a(a. 1=4 of t!e 9ns"\$

the language staff and the Human Resources Unit to the P-5 level of the United Nations Secretariat in Geneva and Nairobi.

d. The Tribunal has also noted that the assessment of the staff selection system and no obligation to engage in standard assessment tests as well as written tests and other related matters (eg. articles 1.2) and 4.2 of the Staff Regulations and Rules do not require the need to set the highest standards of efficiency and integrity.

e. The Tribunal has no obligation to conduct a written assessment of a particular candidate for a position. The on-site assessment conducted as a part of the analysis of the candidates based on the Personnel File (P/F) of the candidate is not a part of the assessment process. The Tribunal has also noted that the assessment of the candidates is based on the information contained in the Personnel File and the assessment of the candidates is based on the information contained in the Personnel File.

f. The Tribunal has also noted that the assessment of the candidates is based on the information contained in the Personnel File and the assessment of the candidates is based on the information contained in the Personnel File. The Tribunal has also noted that the assessment of the candidates is based on the information contained in the Personnel File and the assessment of the candidates is based on the information contained in the Personnel File.

g. The Tribunal has also noted that the assessment of the candidates is based on the information contained in the Personnel File and the assessment of the candidates is based on the information contained in the Personnel File. The Tribunal has also noted that the assessment of the candidates is based on the information contained in the Personnel File and the assessment of the candidates is based on the information contained in the Personnel File.

Receivabiliy

C!a##enge of a (e0se 8 a5#e adm\$nsst(at\$0e de%ss\$on

14. ' ega(d\$ng t!e 'es"ondent>s %a\$m t!at t!e de%ss\$on at sta4e does not !a0e d\$(e%t #ega# %onseAuen%es on t!e A""#%ant>s te(ms of a""o\$ntment& t!e T(\$5una# \$s sat\$sf\$ed t!at t!e A""#%ant does \$dent\$1 and %ontest an \$nd\$0\$dua# adm\$nsst(at\$0e de%ss\$on& to 8 \$t& t!e %!o\$%e of f\$##\$ng 51 #ate(a# t(ansfe(a 0a%an%1 fo(8 !\$% !e !ad a""#ed. As a#(ead1 (u#ed \$n Krioutchkov UNDT/2016/051& t!\$s %ou(se of a\$t\$on 51 t!e Adm\$nsst(at\$on %a((ses o5Ce%t\$0e (e"e(%uss\$ons on t!e %!an%es of a g\$0en %and\$date to 5e %ons\$de(ed fo(Kt!us to "oss\$5#1 5e a""o\$nted aga\$nstK t!e %on%e(ned "ost& and t!e %ond\$tons unde(8 !\$% !e o(s!e ma1 %om"ete fo(\$t.

15. -"e%f\$%a##1& a t(ansfe("u(suant to se%. 2.5 of -T/A9/2010/ \$m"#ses t!at on#1 staff a#(ead1 !o#d\$ng t!e same g(ade and se(0\$

Merits

22.

Case No. UNDT/GVA/2015/074

Judgment No. UNDT/2016/070

0. It is established that the burden of proving an allegation of
motivation of (e)tcaneous factors (establish the amount) remains
2011*UNAT*1:4. bdein

. 9n 0\$e8 of t!e fo(ego\$ng& t!e T(\$5una# D , C9D , -D

T!e a""#\$%at\$on \$s (eCe%ted \$n \$ts ent\$(et1.

)Si!/ned+

Judge T!omas Ia4e(

Dated t!\$s :^{t!} da1 of June 2016

, nte(ed \$n t!e ' eg\$ste(on t!\$s :^{t!} da1 of June 2016

)Si!/ned+

' enL 2 . Va(gas 2 .& ' eg\$st(a(k Gene0a