

# UNDT/2010/002, Xu

## UNAT Held or UNDT Pronouncements

A re-trial would be unduly wasteful of time and resources. The Respondent was adequately represented especially as no oral evidence was tendered by the Applicant and the issue of cross-examining a witness did not arise. Full equality was accorded the parties in the circumstances. The onus lies on the Respondent to show that the provisions of ST/AI/2006/3 had been complied with in this case in order to prove that the Applicant was fully, fairly and properly considered. This onus has not been discharged. The Applicant's candidature was not considered at the 15-day mark as required by the relevant Administrative Instruction. There were no pre-approved criteria properly set for evaluating her candidacy at the 15-day mark. This failure to consider the Applicant at the 15-day mark constitutes a breach of the United Nations staff selection procedures and a violation of the Applicant's rights to due process in the selection exercise. No provision of ST/AI/1999/9 was breached in the circumstances as it was never relevant at any stage of the selection process. The failure of the Programme Manager to inform the Applicant of the outcome of the selection process is both a breach of section 9.5 of ST/AI/2006/3 and a violation of the right of the Applicant to be so informed. This made the Applicant suffer psychologically. The Applicant's rights were injured during the course of the selection process.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to select her for the position of Chinese Reviser at the P-4 level.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

## Outcome Extra Text

UNDT awarded the Applicant six months' net base salary in compensation.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Xu

## Entity

UNON

## Case Number(s)

UNDT/NBI/2009/014

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

7 Jan 2010

## Duty Judge

Judge Izuako

## Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Gender

Staff selection (non-selection/non-promotion)

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2006/3

Former Staff Rules

- Rule 111.2(a)(i)

Secretary-General's bulletins

- ST/SGB/2009/11

UNDT Statute

- Article 10.5
- Article 10.6
- Article 10.7

UNRWA DT Statute

- Article 10.8