

# UNDT/2011/060, Finniss

## UNAT Held or UNDT Pronouncements

The Tribunal found that there was a failure of procedure and a violation of the Applicant's rights during both selection exercises. In this respect, the Tribunal held that the decision not to select the Applicant for the New York post was unlawful as the selection process was tainted by prejudice, which resulted in his candidacy not being given full and fair consideration. With respect to the Vienna post, the Tribunal held that once the programme case officer decided to test and interview the Applicant, who was a roster candidate, afresh with new candidates, it was inherently unfair for the Applicant to be deprived of the properly documented evaluation required by ST/AI/2006/3.

## Decision Contested or Judgment/Order Appealed

The Applicant, a staff member of OIOS, contests two different non-selection decisions for Senior Investigator positions at the P-5 level in New York and Vienna. The Applicant asserted that he had been denied full and fair consideration for promotion and that the selection processes for both the New York and Vienna posts lacked transparency and consistency. He alleged that he had been subjected to prejudicial and/or discriminatory conduct for nearly two years and his non-selection for the posts was merely a continuation of this treatment by senior managers of OIOS.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

## Outcome Extra Text

The Respondent is to compensate Applicant in the amount of 18 months net base salary for the egregious and discriminatory actions he was subjected to during the selection exercise for the New York post. Further, the Respondent is to compensate the Applicant in the amount of 6 months net base salary for the failure to fully and fairly consider his candidacy for the Vienna post.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Finniss

## Entity

OIOS

## Case Number(s)

UNDT/NBI/2009/019

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

31 Mar 2011

## Duty Judge

Judge Boolell

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Sexual exploitation and abuse

Discrimination and other improper motives

Staff selection (non-selection/non-promotion)

Central Review Body

Full and fair consideration

Selection decision

## Applicable Law

Administrative Instructions

- ST/AI/2006/3
- ST/AI/371

UNDT RoP

- Article 9

UNDT Statute

- Article 10.5