

UNDT/2011/129, Muratore

UNAT Held or UNDT Pronouncements

Regarding the first VA, the Applicant was not short-listed for interview, as only 30-day candidates as per ST/AI/2002/4 were. As to the second VA, the Tribunal deemed established that the president of the panel, without consultation with the other two members, already told the Applicant at the end of his interview that he would not be recommended as he did not speak Russian, a competency which was desirable but not required by the VA; he also told him immediately after the interview that he had little chance of being selected within the service he was working in. Concerning the third VA, which published six posts, many of the selected candidates were 60-day candidates that were treated as 30-day candidates based on the above-mentioned exception specific to the regularization exercise. Regarding the fourth, VA the Respondent submits that he was not interviewed because the attempts to contact him were unsuccessful, but was not able to produce the emails allegedly sent. The Applicant was granted seven months' net base salary at the level he held at the time of the contested decision as material and moral damages. Contestation before a final decision on selection: Even if the successful candidate in a selection process has not yet been selected, for a staff member who has already been informed that he or she will not be interviewed, there already exists a non-selection decision, which is open to contestation. The fact that the final selection decision has not yet been made does not entail the irreceivability of the request for administrative review. Hierarchy of norms: The Assistant Secretary-General for Human Resources Management cannot derogate from an administrative instruction issued by the Under-Secretary-General for Management, which is a higher authority in the Organization's hierarchy. Scope of judicial review: Given the large discretion of the Administration in selection issues, the review of such a decision by the Tribunal is limited to abuse of power, procedural flaws, errors of fact and manifest errors of judgment. Request for priority consideration as a remedy: It is not for the Tribunal to order priority consideration of a candidate in future selection procedures, as this would go against the right to fair and equal consideration of the other candidates.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions not to select him for a number of posts.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Muratore

Entity

UNOG

Case Number(s)

UNDT/GVA/2010/024

Tribunal

UNDT

Registry

Geneva

Date of Judgement

13 Jul 2011

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Subject matter (*ratione materiae*)

Temporal (*ratione temporis*)

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2002/4

Related Judgments and Orders

UNDT/2009/022

UNDT/2011/126