

# **UNDT/2012/118, Adundo, et al.**

## UNAT Held or UNDT Pronouncements

The proposed competitive process was necessitated by the ending of funding for the Capital Master Plan (“CMP”), a large-scale long-term renovation of the United Nations Headquarters Complex in New York. According to the Respondent, the Applicants’ posts are funded through CMP; the Applicants dispute this. The main issue in this case is whether the contested decision to subject the Applicants to the ad hoc competitive process test is lawful. The Tribunal found that the ad hoc competitive process announced in April 2012 was unlawful and ordered rescission of the decision to carry it out.

## Decision Contested or Judgment/Order Appealed

The Applicants, a group of 25 Security Officers in New York, filed an application contesting the administrative decision requiring them, as a condition for further employment or selection for retrenchment or renewal, to undergo an ad hoc competitive process that includes a mandatory competency test.

## Legal Principle(s)

Retrenchment, restructuring: In cases of bona fide retrenchment exercises, the Respondent has a wide, but not unfettered, discretion in its implementation, in which the Tribunal would not readily intervene. However, the circumstances in this case are exceptional. Whilst the Administration has to take into account operational requirements and the need for the efficient operation of the Organization, it must also establish fair and reasonable procedures, including fair and objective criteria, and its decisions must be supported by the established facts. Selection of S-1 and S-2 level staff: There are no rules in the Organization on selections for S-1 and S-2 level positions. No administrative instruction has been promulgated regarding the selection of staff up to the S-2 level despite earlier indications that such legislation

would be adopted. Consultations: Whilst it is recognised that an employer may restructure or reorganise its workforce for legitimate reasons and based on its operational requirements, fair, reasonable, and equitable procedures must be followed. This includes a full and meaningful consultation process to ensure that staff members have a say in the process, that they receive proper notice, and that their interests are taken into consideration.

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Adundo, et al.

## Entity

UN Secretariat

## Case Number(s)

UNDT/NY/2012/037

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

31 Jul 2012

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Abolition of post

Non-renewal

## Applicable Law

UNDT Statute

- Article 10.2
- Article 11.3
- Article 2.1

## Related Judgments and Orders

UNDT/2011/032

UNDT/2012/077

UNDT/2012/090

UNDT/2012/097

UNDT/2012/098

UNDT/2012/099

2012-UNAT-201

2011-UNAT-115