

# UNDT/2013/093, Terragnolo

## UNAT Held or UNDT Pronouncements

The decision was taken on the grounds that the Applicant did not fulfill the educational requirements. The Applicant argued that the decision was made in retaliation of his activities as staff representative. The UNDT found that the decision was illegal since documentary evidence showed that the Administration applied the notion of “public administration” randomly and that based on the Applicant’s educational credentials, he ought to have been invited to participate in the examination in question. The UNDT found that the Applicant did not submit conclusive evidence that the decision was motivated by extraneous factors and particularly in relation to his activities as staff representative. The UNDT ruled that the decision not to convoke the Applicant to take the exam constituted a loss of chance which caused him material damages, meriting compensation. It also awarded compensation for moral damages.

## Decision Contested or Judgment/Order Appealed

The Applicant, a staff member of the general service category, appealed the decision not to convoke him to the 2012 young professionals programme (YPP) examination for economic affairs.

## Legal Principle(s)

Legality of decisions: Circumstances which happen after an administrative decision was taken have no bearing on the Judge’s assessment of the legality of that decision, which has to be undertaken exclusively in light of the facts existing at the moment the decision was taken. Discretionary power: Though at some stage of a selection procedure the Administration has discretionary power to select candidates, it had no such power at the stage at which the Applicant’s candidature was eliminated, since all candidates who met the requirements of the vacancy announcement, including the Applicant, had to be admitted to sit for the examination. Compensation/material damages: A lost chance to get on the list of successful candidates and ultimately to be selected and appointed to a P-2 post under the YPP, and as such to considerably improve one’s status within the Organization, may give rise to material damages warranting moderate compensation.

## Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Only financial compensation

Full judgment

[Full judgment](#)

Applicants/Appellants

Terragnolo

Entity

DGACM

Case Number(s)

UNDT/GVA/2013/2

Tribunal

UNDT

Registry

Geneva

Date of Judgement  
27 Jun 2013  
Duty Judge  
Judge Cousin  
Language of Judgment  
French  
Issuance Type  
Judgment  
Categories/Subcategories  
Compensation  
Loss of chance  
Non-pecuniary (moral) damages  
Pecuniary (material) damages  
Applicable Law  
Administrative Instructions

- ST/AI/2012/2

Related Judgments and Orders  
2012-UNAT-205