

UNDT/2013/128, Landgraf

UNAT Held or UNDT Pronouncements

The Tribunal found that the decision was lawful and that the case file did not allow concluding that it was tainted by favoritism for the selected, external candidate, inter alia, since the HM had initially recommended an internal candidate. Procedural irregularities: The decision not to convoke a shortlisted, internal candidate, who was not recommended by the HM, for a test and/or interview is in accordance with the applicable rules at UNHCR.

UNHCR policy on comparative review is not applicable in cases of non-selection not involving the abolition of post. Discretionary authority: In selection matters, the Administration enjoys broad discretion and the judicial control is limited to examine if the Administration made an error of fact or a manifest error of appreciation. The burden of proof that a selection decision was motivated by extraneous factors, e.g. favoritism, falls on the Applicant.

Decision Contested or Judgment/Order Appealed

The Applicant appealed the decision not to select her for a P-3 post, as ICT Officer, Infrastructure HQ, at UNHCR. The post had initially been opened only for internal candidates and the Applicant applied to it; the Hiring Manager (HM) did not recommend her, since she found she did not have the relevant experience in ICT infrastructure and network security. The HM recommended an internal candidate, who was rejected by DHRM, since he was monolingual. The position was therefore readvertised, this time internally and externally. The Applicant was again not recommended, since the HM found, again, that she did not have working knowledge of complex networking environment and network security; she added that she lacked work experience with configuring and supporting firewalls and routers and skills in ICT infrastructure to provide 2nd level support. The Tribunal found that the decision was lawful and that the case file did not allow concluding that it was tainted by favoritism for the selected, external candidate, inter alia, since the HM had initially recommended an internal candidate.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Landgraf

Entity

UNHCR

Case Number(s)

UNDT/GVA/2012/92

Tribunal

UNDT

Registry

Geneva

Date of Judgement

16 Oct 2013

Duty Judge

Judge Cousin

Language of Judgment

French

Issuance Type

Judgment

Categories/Subcategories

Burden of proof

Non-disciplinary

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Staff Regulations

- Regulation 9.6(e)