

UNDT/2014/104, Smoljan

UNAT Held or UNDT Pronouncements

The Applicant claimed that the Administration had implicitly accepted that he was suitable as he had not been excluded from the process at the stage when suitability was discussed. Hence, and given that the applicable UNHCR recruitment rules provide for priority consideration of internal candidates, no external candidates should have been even considered. The Tribunal concluded that the Applicant did not meet the minimum educational requirements nor the required professional experience for the post; as such, he was not eligible and, thus, not suitable for the post. Despite him being an internal candidate, inasmuch as the Applicant was not suitable, he was not entitled to priority consideration. Therefore, the decision not to select the Applicant was proper.

Decision Contested or Judgment/Order Appealed

The Applicant applied, as an internal candidate, for a P-4 post within UNHCR, for which an external candidate was eventually selected.

Legal Principle(s)

Minimum requirements: The minimum requirements specified in the relevant Job Description represent the minimum threshold that any candidate must indispensably meet to be considered eligible. The Organization enjoys large discretion to determine the eligibility requirements. This said, once it has set the pre-requisites for a given post, the Administration is bound to assess all candidates against such criteria in a consistent manner. Hence, the Organization is not only entitled, but actually obliged, to set aside from the recruitment process candidates who are found not to satisfy the minimum requirements. **Waiver of educational requirements:** There is no valid legal basis to depart from a clearly set requirement of a certain degree, unless the relevant Job Descriptions/Vacancy Announcements, when setting the

education requirements, include a proviso allowing to waive the need for the specified qualifications, typically, in case a candidate can demonstrate a particularly strong experience in the relevant discipline.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Smoljan

Entity

UNHCR

Case Number(s)

UNDT/GVA/2013/46

Tribunal

UNDT

Registry

Geneva

Date of Judgement

23 Jul 2014

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Eligibility

Full and fair consideration

Applicable Law

Staff Regulations

- Regulation 1.2(c)
- Regulation 4.1

UN Charter

- Article 101.1

Related Judgments and Orders

2012-UNAT-265

2011-UNAT-174