

# UNDT/2015/048, Maiga

## UNAT Held or UNDT Pronouncements

The Tribunal found that the Applicant has discharged the burden of proof in showing that her non-selection for the upgraded post and her subsequent separation from the Organization were motivated by bias, procedural breaches, retaliation and other improper motives. Procedural flaws - The UNIFEM Selection Guidelines were not complied with during the selection process. The Tribunal found several procedural flaws in the selection process. Priority Consideration - Priority consideration is only to be exercised if an Applicant entitled to it is recommended for appointment following an interview. The Respondent did not as much as avert his mind to whether the Applicant was entitled to any priority consideration in the selection process to her re-classified post. No attention was paid to the matter of any priority considerations for the Applicant. Counsel - It is the self-evident duty of all counsel appearing before the Tribunals to contribute to the fair administration of justice and the promotion of the rule of law. Counsel must realize that in prosecuting a case, they are first and foremost officers of the Tribunal and their efforts at all times must be directed at laying all their cards face up on the table with a view to helping the Tribunal achieve the ends of justice. Counsel at all times must be beyond reproach and not place themselves in a position where they stand or fall with their clients.

Accountability referral: pursuant to art. 10.8 of its Statute, the Tribunal referred to the Secretary-General, the Regional Director, West Africa Regional Office, UN Women in Dakar, for deliberately covering up an egregious financial scam that involved a shameful corruption of some civil society organizations by UN Women personnel and wrongfully influencing the outcome of a selection process in retaliation against a whistle-blower.

## Decision Contested or Judgment/Order Appealed

The Applicant is a former staff member of the United Nations Entity on Gender Equality and the Empowerment of Women (“UN Women”). She became the Country Programme Manager (CPM) in Côte d’Ivoire at the P-4 level on 1 April 2010. In 2012, her post was upgraded to the P-5 level and advertised. The Applicant applied for the post and was not selected, resulting in her separation. In her Application dated 22 April 2013, she contests that decision on the grounds that it was tainted by bias, improper consideration of performance appraisals and procedural error.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Both financial compensation and specific performance.

Full judgment

[Full judgment](#)

Applicants/Appellants

Maiga

Entity

UN-WOMEN

Case Number(s)

UNDT/NBI/2013/15

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

11 Jun 2015

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Discrimination and other improper motives

Staff selection (non-selection/non-promotion)

Full and fair consideration

Interview

Referral for accountability

Applicable Law

Administrative Instructions

- ST/AI/371

UNDT Statute

- Article 10.5
- Article 10.5(b)

UNRWA DT Statute

- Article 10.8

Related Judgments and Orders

2015-UNAT-531