

UNDT/2016/067, Tsoneva

UNAT Held or UNDT Pronouncements

The UNDT found the application irreceivable in respect of one position due to the Applicant's failure to file a request for management evaluation within the applicable time limit. With respect to the remaining three posts, the Tribunal found that the decision not to select the Applicant for the position of Chief of Section (Procurement of Services) was unlawful, and that the other two selection decisions were not. Consequently, the Tribunal rescinded the decision not to select the Applicant for the position of Chief of Section (Procurement of Services), set the amount of alternative compensation to USD3,500 and awarded the Applicant USD3,000 for moral damages. Procedural flaw: The provision of false information about the selection process and the reasons for the selection or non-selection of candidates to the Joint Review Board constitutes a procedural flaw in the assignment procedure. The reliance on a staff member's performance in a previous interview for a different position instead of her fact sheet to determine her suitability for a post constitutes a violation of sec. 91 of UNHCR Policy and Procedures on Assignments and Promotions (IOM/FOM/033/2010) of 14 June 2010. Full and fair consideration: The sole reliance on a staff member's performance in a previous interview held eight months before, for a position which had different requirements, does not amount to full and fair consideration of her candidacy for appointment.

Decision Contested or Judgment/Order Appealed

The Applicant, a staff member of the UNHCR, appealed her non-selection for four posts advertised in the September 2013 and March 2014 Compendium of Vacant Positions.

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

Tsoneva

Entity

UNHCR

Case Number(s)

UNDT/GVA/2015/75

Tribunal

UNDT

Registry

Geneva

Date of Judgement

2 Jun 2016

Duty Judge

Judge Laker
Language of Judgment
English
Issuance Type
Judgment
Categories/Subcategories
Compensation
Loss of chance
Staff selection (non-selection/non-promotion)
Full and fair consideration
Applicable Law
Other UN issuances (guidelines, policies etc.)

- UNHCR IOM/FOM/064/2013
- UNHCR IOM/FOM/33/2010 (Policy and Procedures on Assignments and Promotions)

Laws of other entities (rules, regulations etc.)

- UNHCR/HCP/2014/3 (Policy on Resolving Situations of Staff Members in Between Assignments)

Staff Rules

- Rule 11.2

UNDT Statute

- Article 8.1(c)
- Article 8.3

Related Judgments and Orders

UNDT/2015/115
2010-UNAT-036
2010-UNAT-072
2011-UNAT-108
2014-UNAT-402
2011-UNAT-110
2012-UNAT-200
2012-UNAT-265
2011-UNAT-122
2011-UNAT-175
2011-UNAT-174
2013-UNAT-347
2011-UNAT-109
2013-UNAT-309