

# UNDT/2019/042, Stefanizzi

## UNAT Held or UNDT Pronouncements

The Organization's failure to state fully the selection criteria in the GJO constitutes a procedural error in violation of ST/AI/2010/3. The procedural error in the recruitment process did not impact the Applicant's right to be fully and fairly considered. Her application was fully and fairly reviewed by the hiring manager and it was within the reasonable discretion of the Organization to find that the Applicant's experience fell short of the minimum criteria.

## Decision Contested or Judgment/Order Appealed

The decision not to select the Applicant for a post.

## Legal Principle(s)

The Secretary-General has broad discretion in the selection and appointment of staff. In matters of staff selection, it is the role of the Dispute Tribunal to review the challenged selection process to determine whether the applicable regulations and rules have been applied and whether a candidate has received full and fair consideration, discrimination and bias are absent, proper procedures have been followed, and all relevant material has been taken into consideration. The Tribunals' role is not to substitute their decision for that of the Administration. The official acts of the Respondent enjoy a presumption of regularity. If the management is able to even minimally show that the applicant's candidature was given a full and fair consideration, then the presumption of law stands satisfied. Thereafter, the burden of proof shifts to the applicant who can rebut the presumption of regularity by showing through clear and convincing evidence that he or she was denied a fair chance of selection. The criteria to be used in evaluating candidates must be clearly stated in the vacancy announcement. In providing full and fair consideration to staff members, this Tribunal has held that the Administration is bound by the terms of the vacancy announcement that regulates the selection exercise. It is a matter of fairness and transparency that the vacancy announcement should inform potential candidates clearly and fully of the requirements of an advertised post. A clear and full statement is all the more imperative with respect to evaluation criteria which will be decisive in the assessment of the candidates' suitability for the post. An initial prescreening into a recruitment process does not confer a legal entitlement to a job applicant if the candidate is found later to be lacking the particular requirements necessary for selection. An irregularity in a selection process has no impact on the status of a staff member when he or she had no foreseeable chance of promotion or being included in the roster. However, in a case where a staff member had a significant chance of promotion, the irregularity has a direct impact on the status of that staff member resulting in the rescission of the impugned decision.

## Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Stefanizzi

Entity

MINUSTAH

Case Number(s)

UNDT/NY/2016/072

Tribunal

UNDT  
Registry  
New York  
Date of Judgement  
20 Mar 2019  
Language of Judgment  
English  
Issuance Type  
Judgment  
Categories/Subcategories  
Staff selection (non-selection/non-promotion)  
Full and fair consideration  
Applicable Law  
Administrative Instructions

- ST/AI/2010/3

#### Staff Regulations

- Regulation 1.2(c)
- Regulation 4.1

#### UN Charter

- Article 101

#### Related Judgments and Orders

2011-UNAT-110  
2011-UNAT-141  
2013-UNAT-286  
2011-UNAT-122  
2015-UNAT-540  
UNDT/2012/200  
2014-UNAT-397  
2015-UNAT-603  
2017-UNAT-747  
UNDT/2012/123  
UNDT/2012/178  
UNDT/2011/159  
2018-UNAT-879  
2016-UNAT-691  
2011-UNAT-172  
2011-UNAT-175  
2011-UNAT-174  
2010-UNAT-094  
UNDT/2012/021  
UNDT/2014/029  
2015-UNAT-527