

UNDT/2020/207, Elias

UNAT Held or UNDT Pronouncements

The Respondent has appropriately established the rationale for canceling a JO and readvertising it in response to the Secretary-General's Gender Strategy issued on 12 Sep September 2017, namely to attract more female candidates. The re-advertisement lawfully fell within the Organization's discretion. The Respondent has not appropriately established that the role of the Human Resources official was to be that of an assessor within the meaning of the Hiring Manager's Manual and that he was therefore authorised to ask probing questions to the Applicant during the interview. The only irregularity in the selection exercise that the Tribunal has found is that the Human Resources official went beyond his role when he asked the Applicant some probing question during the competency-based interview in relation to the second JO. Based on the evidence on file, the Tribunal finds that even if the detected irregularity had not happened, the Applicant would still not have had a foreseeable and significant chance for selection.

Decision Contested or Judgment/Order Appealed

Non-selection to the position of Field Security Assistant (G-4).

Legal Principle(s)

The Tribunal's judicial review is limited. Its role is to determine if the administrative decision under challenge is reasonable and fair, legally and procedurally correct, and proportionate. The Secretary-General has broad discretion in matters of staff selection. The Tribunal shall only examine (1) whether the procedure as laid down in the Staff Regulations and Rules was followed and (2) whether the staff member was given fair and adequate Consideration and its role is to assess whether the applicable regulations and rules have been applied and whether they were applied in a fair, transparent and non-discriminatory manner. The Tribunals' role is not to substitute their decision for that of the Administration. The starting point for judicial review is a presumption that official acts have been regularly performed.

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Elias

Entity

UNSCOL

Case Number(s)

UNDT/GVA/2019/024

Tribunal

UNDT

Registry

Geneva

Date of Judgement

10 Dec 2020

Duty Judge

Judge Belle

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/3

UN Charter

- Article 101.3

Related Judgments and Orders

2010-UNAT-084

2017-UNAT-762

2015-UNAT-496

2014-UNAT-451

UNDT/2010/060

2010-UNAT-094

2013-UNAT-383

2019-UNAT-944