

2015-UNAT-496, Asariotis

UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT erred in law in finding that, pursuant to the Instruction Manual, a candidate for an advertised post was entitled to be apprised of the composition of the interview panel prior to the interview. UNAT held, however, that by pointing out that she had been previously interviewed for the post and that there were ongoing proceedings before UNDT regarding her challenge to a prior selection exercise, the staff member had put the Administration on notice of the importance she attached to the panel's composition. UNAT held that UNDT did not err in concluding that had the staff member been informed of the composition of the panel, she would have requested the replacement of the panel members and the Administration's failures regarding the notice of the composition of the panel vitiated the entire process. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested her non-selection, in particular the Administration's failure to notify her of the composition of the interview panel, and the non-selection decision. UNDT held that, in failing to notify the Applicant of the composition of the interview panel, she was deprived of a fundamental right, namely the possibility to contest the composition of the interview panel. UNDT rescinded the non-selection decision and awarded the staff member USD 8,000 as material damages for lack of full and fair consideration and USD 6,000 as moral damages for the distress she suffered due to the irregularities.

Legal Principle(s)

Rules, policies, or procedures intended for general application may only be established by duly promulgated Secretary-General's bulletins and administrative

issuances. The “Instruction Manual for the Hiring Manager on the Staff Selection System” (Instruction Manual), at most, provides guidance on the responsibilities of the hiring manager and does not have the legal force. A candidate is not entitled by virtue of the Instruction Manual to be apprised of the composition of the interview panel prior to the interview.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Asariotis

Entity

UNCTAD

Case Number(s)

2014-564

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Interview

Applicable Law

Administrative Instructions

- ST/AI/2010/3

Related Judgments and Orders

UNDT/2013/144

2013-UNAT-309

UNDT/2012/066

2013-UNAT-286