

# **2017-UNAT-784, Sarrouh**

## **UNAT Held or UNDT Pronouncements**

UNAT considered an appeal by the Secretary-General. UNAT held that UNDT committed an error of law in deciding that the decisions not to nominate Ms Sarrouh for the IAAP's further consideration for the RC positions for which she applied in August and November 2013 were unlawful. UNAT held that UNDT erred by conducting a de novo assessment of Ms Sarrouh's performance and exceeded its competence. UNAT held that UNDT erred in law and exceeded its competence by substituting its own decision for that of the Administration regarding the outcome of the selection process. UNAT held that UNDT erred in law by substituting its own views as to the pertinent criteria for Ms Sarrouh's post. UNAT held that the Secretary-General was entitled to take into account a report of a very serious problem in the Country Office under Ms Sarrouh's responsibility when considering her applications for important posts in other countries and that UNDT was not competent to hold that the Secretary-General should have given precedence to different criteria. UNAT held that, in light of Ms Sarrouh's performance, it could not be said that the decision not to nominate her was unreasonable or unlawful. UNAT held that UNDT erred in concluding that Ms Sarrouh's entire performance with UNDP was satisfactory. UNAT held that the evidence before UNDT established that the Secretary-General was justified to decide not to nominate her for any positions, an exercise of his broad discretion. UNAT allowed the appeal and vacated the UNDT judgment.

## **Decision Contested or Judgment/Order Appealed**

Ms Sarrouh contested the decision not to nominate her for further consideration by the Inter-Agency Advisory Panel (IAAP) for a number of Resident Coordinator (RC) positions. UNDT granted the application in part. UNDT rejected all claims regarding the Applicant's non-selection for the posts for which she had applied in April, September, and October 2013 as non-receivable *ratione materiae* as she had failed to request management evaluation of those decisions. UNDT found that the

decisions not to formally nominate Ms Sarrouh for the IAAP's further consideration for the RC positions for which she had applied in August and November 2013 were unlawful. UNDT awarded moral damages.

## Legal Principle(s)

In matters of staff selection, the Secretary-General has broad discretion; this discretion is not unfettered and is subject to judicial review. The Tribunals' role is not to substitute their decision for that of the Administration.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Sarrouh

## Entity

UNDP

## Case Number(s)

2017-1066

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

27 Oct 2017

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Standard of review (judicial)

Judicial review (general)

Staff selection (non-selection/non-promotion)

## Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNDP Guidelines for the Selection and Appointment of Resident Coordinators of November 2009

## Related Judgments and Orders

UNDT/2016/219

2016-UNAT-652

2011-UNAT-122

2011-UNAT-141

2015-UNAT-540

2011-UNAT-110

2012-UNAT-216

2012-UNAT-265