

2017-UNAT-802, Riecan

UNAT Held or UNDT Pronouncements

UNAT considered an appeal from the Secretary-General. UNAT held that UNDT did not correctly apply the law in considering Mr Riecan's challenge to the selection for the post and made errors of law and fact in accepting the staff member's application. On the UNDT's finding that there was a duty of the assessment panel in the course of a selection process to consider the e-PAS reports of the candidate and reflect that consideration in its own report, UNAT held that (1) UNDT did not make reference to a specific provision providing for this duty; (2) the fact that the panel did not take into consideration the performance appraisals did not render the selection process unreasonable or unfair; and (3) the Administration has a wide discretion to choose the best evaluation method. UNAT held that UNDT improperly assumed the role of deciding which evaluation method should have been used and adopted an approach that was not institutionalized in the existing staff selection system established by the Staff Regulations and Rules. UNAT granted the Secretary-General's appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

Mr Riecan contested the decision not to recommend him for a position. UNDT found that Mr Riecan was not given full and fair consideration in his candidacy for the position as the interview panel committed a material failure when it did not consider his performance appraisals. UNDT awarded compensation.

Legal Principle(s)

The Secretary-General has broad discretion in matters of staff selection. It is the role of the Tribunals to assess whether the applicable Regulations and Rules have been applied and whether they were applied in a fair, transparent, and non-discriminatory manner. It is not the Tribunals' role to substitute their decision for that of the

Administration.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Riecan

Entity

UNCTAD

Case Number(s)

2017-1087

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Oct 2017

President Judge

Judge Raikos

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 101.1

Related Judgments and Orders

UNDT/2017/029