

2019-UNAT-940, Wilson

UNAT Held or UNDT Pronouncements

UNAT held that it was clear from the record that UNDT did not consider the whole of the evidence in arriving at its decisions and that its determination of the facts was unsustainable. UNAT held that UNDT based its finding of bias on selected extracts of a report from the Ethics Office which neither positively established bias nor explained how, if at all, the potential bias to which it referred was connected to the selection process. UNAT held that the need for factual determinations based on the whole of the relevant evidence required the case to be remanded to the UNDT for a rehearing de novo. UNAT vacated the UNDT judgment and remanded the matter to UNDT for full consideration of its merits by another Judge.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to select him for a position on the basis that he was not fully and fairly considered. UNDT determined that the contested decision was unlawful for three main reasons: (1) the hiring manager erred in finding the selected candidate's Master's degree was related to and therefore relevant to any of the specifically mentioned areas and there was no evidence that she had a first-level university degree which could have replaced the Master's degree requirement, together with work experience; (2) the hiring manager erred in the screening by finding that the selected candidate exceeded the requirement of working experience by introducing an additional criterion of field experience; and (3) the hiring manager was not impartial. UNDT granted the application and ordered rescission of the impugned decision.

Legal Principle(s)

A determination of the facts requires a full and proper examination of the evidence.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Wilson

Entity

UN Secretariat

Case Number(s)

2019-1236

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

UNAT Statute

- Article 2.3