

2019-UNAT-961, Wilson

UNAT Held or UNDT Pronouncements

UNAT held that the case was distinguishable from Finniss (judgment No. 2014-UNAT-397) since there was no allegation of bias, discrimination, or any other kind of deteriorated or privileged relationship between the involved candidate and the Deputy CEO. UNAT disagreed with UNDT's holding that the Deputy CEO should not have acted as a voting member of the assessment panel. UNAT held that in order to exclude the Deputy CEO's involvement in the selection exercise, there must be reasonable grounds and/or evidence of extraneous or improper motives, of which there was none (except unsubstantiated and inconsequential rumours). UNAT held that the selection process had a built-in safeguard mechanism to keep any individual bias and preformulated opinion from influencing the selection exercise, which included two members of the assessment panel being external to UNJSPF, a staff member from the Office of Human Resources Management sitting on the panel ex officio making a recommendation to the CEO, who took the ultimate decision. UNAT held that the other circumstantial factors considered by the UNDT as possible indicators of deficiency in the selection exercise were not, by themselves, capable of invalidating the selection process. UNAT held that UNDT erred in law when it concluded that the Appellant was not afforded full and fair consideration for the position. UNAT upheld the appeal and vacated the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested his non-selection for a position with UNJSPF. UNDT found that the selection process was flawed and that the Applicant did not receive full and fair consideration, chiefly because of the involvement of the Deputy Chief Executive Officer (Deputy CEO), UNJSPF, in the second selection exercise which constituted an actual or perceived conflict of interest. However, UNDT declined to rescind the decision or award the Applicant any monetary compensation.

Legal Principle(s)

A conflict of interest occurs when, by act or omission, a staff member's personal interests interfere with the performance of his or her official duties and responsibilities or with the integrity, independence, and impartiality required by the staff member's status as an international civil servant. There must be reasonable grounds and/or evidence of extraneous or improper motives in order to exclude a staff member from involvement in a selection exercise.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Wilson

Entity

UNJSPF

Case Number(s)

2019-1260

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Oct 2019

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Staff Regulations

- Regulation 1.2(m)

UNAT RoP

- Article 22

Related Judgments and Orders

UNDT/2019/041