

# 2021-UNAT-1140, Fei Xing

## UNAT Held or UNDT Pronouncements

The UNDT did not err in deciding that Ms. Xing's candidacy was given a full and fair consideration, in finding that the administrative instruction on gender parity (ST/AI/1999/9) did not apply in this case, and in not granting Ms. Xing's request to amend her application. The UNDT has not been shown to have erred in requiring credible evidence of a clear and compelling nature of Ms. Xing's allegations of ulterior motives, which was absent.

## Decision Contested or Judgment/Order Appealed

UNDT/2020/120, in which UNDT dismissed Ms. Xing's challenge to her non-selection.

## Legal Principle(s)

It is incumbent on a staff member alleging improper motive to establish this and surmount the presumption of regularity. In other words, the extraordinary must rebut the ordinary by clear and convincing evidence. The appellate role is to determine whether applicable rules and regulations have been applied in a fair, transparent and non-discriminatory matter. If so, the Tribunal is not to substitute its decision for that of the Administration. The obligations on selectors, appointers or promoters of staff to provide a written analysis of respective candidates are mandatory so that a failure to comply with this will render the selection process flawed.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Fei Xing

Entity

UN Secretariat

Case Number(s)

2020-1453

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Jun 2021

President Judge

Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Applicable Law

## Administrative Instructions

- ST/AI/1999/9
- ST/AI/2010/3
- ST/AI/2012/2/Rev. 1

## Staff Regulations

- Regulation 4.2

## Related Judgments and Orders

2021-UNAT-1100

2019-UNAT-932

2016-UNAT-642

2015-UNAT-536