

# UNDT/2022/094, Applicant

## UNAT Held or UNDT Pronouncements

The Applicant had no standing to contest the modality of a further recruitment process. Absent a reviewable administrative decision, the application was not receivable with respect to the principal claim. As the administration acted within the scope of its discretion, compensation was not due.

## Decision Contested or Judgment/Order Appealed

The decision not to recommend/select the Applicant for a logistics officer position at the P-4 level.

## Legal Principle(s)

For the application to be receivable, the impugned decision must fall under the Tribunal's jurisdiction *rationae materiae*, that is, it must produce direct consequences for the terms of appointment in "a precise individual case. Only an official communication on selection gives rise to a legitimate expectation to be accordingly promoted or appointed. The selected candidate could then challenge the cancellation decision and place the Administration under the burden of showing good cause to cancel.

Conversely, a candidate who has not been selected may challenge the decision on selection of another candidate and have it rescinded. Following a cancellation of the job opening, however, the breach of the non-selected candidate's terms and conditions of the appointment does not arise. Such candidate may not compel the Administration to proceed with the recruitment process, either afresh, or to have the impugned process returned to a stage favourable to him/her. To construe such claim, notwithstanding dubious basis for it, would belie the competence of the Secretary-General as Chief Executive Officer of the United Nations.

## Outcome

Dismissed as not receivable

## Outcome Extra Text

The job opening was cancelled in recognition of the Applicant's criticism of the selection decision. Absent a reviewable administrative decision, the application is not receivable with respect to the principal claim.

## Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UNSOS

Case Number(s)

UNDT/NBI/2022/022

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

30 Sep 2022

Duty Judge

Judge Milart

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Full and fair consideration

Administrative decision

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/3