

UNDT/2022/107, Negasa

UNAT Held or UNDT Pronouncements

The Tribunal found that the Applicant's candidature was not given full and fair consideration. Many questions were deleted after the test, a grading methodology was developed after the test and even the passing grade was determined after the test. If indeed there was a legitimate need to make a correction, which there was no proof that there was, the permitted action that the Administration could have taken as per Chhikara 2020-UNAT-1014 was either: (a) administer a new written test to all candidates; or (b) implement variations to the assessment methodology that would not have prejudiced any specific job candidates (the reverse impact of "the no difference principle"). Deleting questions was not an option. The Administration's actions were therefore unlawful. The Tribunal could not afford the Applicant the opportunity to proceed to the next steps of the selection process. He could however be freshly evaluated on his answers to the questions that were deleted. The Applicant had to be placed in the same position he would have been in if the illegality had not occurred, and be granted an opportunity to be fairly considered. The Tribunal directed the Respondent to set a new written assessment to be taken by the Applicant, without undue delay.

Decision Contested or Judgment/Order Appealed

The Applicant challenged the Administration's evaluation of his candidature for the Security Affairs Exam as part of the Young Professionals Programme.

Legal Principle(s)

Within the ST/AI/2012/2/Rev 1, the only permissible changes which can be done by the Specialised Board of Examiners was to the 'Format' of the written and oral examination and before the test/interview are administered (section 5.4). Such changes shall be communicated to all examinees prior to the actual exam. The

Board cannot delete any questions, let alone after the exam has been done and the papers marked. The role of Human Resources is then only to notify the examinees of the outcome of their performance, and nothing more.

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Full judgment

[Full judgment](#)

Applicants/Appellants

Negasa

Entity

UNMIS/UNMISS

Case Number(s)

UNDT/NBI/2021/072

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

7 Oct 2022

Duty Judge

Judge Buffa

Language of Judgment

English

Appeal Status

Appealed

Issuance Type

Judgment

Categories/Subcategories

Full and fair consideration

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2012/2/Rev. 1

Related Judgments and Orders

UNDT/2019/078

2020-UNAT-1014

UNDT/2018/033

2013-UNAT-350