

UNDT/2023/112, Applicant

UNAT Held or UNDT Pronouncements

In summary, the Tribunal finds that in this recruitment exercise, the proper procedures were followed, the Applicant's candidacy was given full and fair consideration, the applicable regulations and rules were applied in a fair, transparent and non-discriminatory manner, and the OHCHR High Commissioner properly exercised her discretion in making the selection decision.

Decision Contested or Judgment/Order Appealed

The Applicant, a former staff member of the Office of the High Commissioner for Human Rights ("OHCHR"), filed an application contesting the decision not to select him for a fixed-term position, at the P-5 level, of Senior Human Rights Officer and Coordinator of the Secretariat of OHCHR's International Fact-Finding Mission ("FFM") on Venezuela, based in Panama City.

Legal Principle(s)

It is well established that the Secretary-General has broad discretion in matters of staff selection. However, this discretion is not unfettered and is subject to judicial review. The Appeals Tribunal has held that when reviewing such staff selection decisions, the Tribunal shall consider: "(1) whether the procedure as laid down in the Staff Regulations and Rules was followed; (2) whether the staff member was given full and fair consideration, and (3) whether the applicable Regulations and Rules were applied in a fair, transparent and non-discriminatory manner".

Outcome

Dismissed on merits

Outcome Extra Text

The Tribunal finds that in this case, the High Commissioner's decision to select someone other than the first-ranked candidate is not tainted by bias, prejudice or improper motive and takes relevant factors into consideration. The Tribunal recalls that, at the Applicant's request, the Respondent was able to produce evidence showing that there had been other occasions when the High Commissioner had not selected the first-ranked candidate on the list of recommended candidates following an assessment process. In the case at hand, the Tribunal notes that although the High Commissioner deviated from the order of preference put forward by the hiring manager in the recommendation memorandum of 15 March 2021, it was for a legitimate and fully articulated reason, namely the need to promote a long-serving, qualified and experienced internal candidate in OHCHR.

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

OHCHR

Case Number(s)

UNDT/NY/2022/009

Tribunal

UNDT

Registry

New York

Date of Judgement

9 Oct 2023

Duty Judge

Judge Adda

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Applicable Law

Administrative Instructions

- ST/AI/2010/3/Section 9.3

Related Judgments and Orders

2016-UNAT-639

2023-UNAT-1332

2022-UNAT-1249

2011-UNAT-122

2015-UNAT-603

UNDT/2012/021

2013-UNAT-284

2020-UNAT-1013

2011-UNAT-115

2018-UNAT-893