

# UNDT/2023/135, Kirby

## UNAT Held or UNDT Pronouncements

The Tribunal found that the Applicant failed to show by clear and convincing evidence that she was denied a fair chance of promotion. The contested decision was lawful as the Administration appropriately exercised its discretion in matters of staff selection. The Tribunal found no evidence to support the Applicant's view that her involvement with "contentious" discussions with DGACM management as a Staff Union representative has any bearing on the interview process for the contested position.

## Decision Contested or Judgment/Order Appealed

The Applicant, now a Senior Reviser at the P-5 level in the English Verbatim Section, Meetings and Publishing Division, Department for General Assembly and Conference Management ("DGACM"), based in New York, contested the decision not to select her for the position of a Senior Reviser/Project Manager, at the P-5 level, in the English Translation and Editorial Service of the Documentation Division, DGACM

## Legal Principle(s)

When reviewing matters of staff selection, the Tribunal shall examine "(1) whether the procedure as laid down in the Staff Regulations and Rules was followed; and (2) whether the staff member was given full or adequate and fair consideration" (see, *Abbassi* 2011-UNAT-110). Acting fairly means that proper procedures were followed and the decision is not tainted by improper motives, which shall include bias and or discrimination. Further, the Administration shall not act in a capricious or arbitrary manner. The Tribunal shall interfere with a decision which it finds to be absurd or perverse (see, *Sanwidi* 2010-UNAT-084, confirmed in many subsequent cases, including in *Kinyanjui* 2019-UNAT-932).

## Outcome

Dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Kirby

## Entity

DGACM

## Case Number(s)

UNDT/NY/2022/056

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

8 Dec 2023

## Duty Judge

Judge Sikwese

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Staff selection (non-selection/non-promotion)

## Applicable Law

Staff Regulations

- Regulation 1.2(c)

UN Charter

- Article 101.1

## Related Judgments and Orders

2011-UNAT-110

2010-UNAT-084

2019-UNAT-932

2017-UNAT-762

2020-UNAT-1066