



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1574

**Johnstone Summit Oketch
(Appellant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before:	Judge Nassib G. Ziadé, Presiding Judge Katharine Mary Savage Judge Kanwaldeep Sandhu
Case No.:	2024-1953
Date of Decision:	27 June 2025
Date of Publication:	26 August 2025
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Amanda Stoltz

JUDGE NASSIB G. ZIADÉ, PRESIDING.

1. Mr. Johnstone Summit Oketch (Mr. Oketch), a Humanitarian Affairs Officer at the P-4 level with the Office for the Coordination of Humanitarian Affairs (OCHA) based in New York, United States, contested the decision of the Administration not to select him for the position of Senior Humanitarian Affairs Officer and Head of Office of OCHA's African Union Liaison Office (AULO) (the Position) at the P-5 level in Addis Ababa, Ethiopia (contested decision).

2. On 9 August 2024, by Judgment No. UNDT/2024/049 (impugned Judgment),¹ the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) concluded that the contested decision was lawful and dismissed Mr. Oketch's application.

3. Mr. Oketch lodged an appeal against the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).

4. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

Facts and Procedure

5. Mr. Oketch joined OCHA in May 2002 and has held various positions during his employment. From 2017 to 2020, he served in the AULO in Addis Ababa.

6. On 8 February 2018, Mr. Oketch was designated Officer-in-Charge (OiC) of the AULO.² In this capacity, he oversaw the downsizing and reorientation of the AULO into a single-footprint entity within the United Nations Office to the African Union (UNOAU).

7. On 1 October 2018, Mr. Oketch was promoted to the position of Humanitarian Affairs Officer at the P-4 level with OCHA's External Relations and Partnerships Section (ERPS) in Addis Ababa.³

¹ *Oketch v. Secretary-General of the United Nations*, Judgment No. UNDT/2024/049.

² UNDT Application, Note verbale from OCHA dated 8 February 2018.

³ Answer brief, para. 4.

8. On 11 February 2020, Mr. Oketch was appointed as the OCHA Representative to the African Union in Addis Ababa.⁴
9. On 1 January 2021, Mr. Oketch was laterally transferred to the ERPS in New York, where he continued to serve as an OCHA's Non-Resident Representative to the African Union, among other functions.
10. In May 2022, OCHA informed the African Union of the decision to reestablish the AULO in Addis Ababa. As a result, on 5 November 2022, Mr. Oketch was redeployed on a surge mission in his capacity as OCHA's Representative to the African Union to support the reestablishment of the AULO in Addis Ababa. His redeployment was initially scheduled to last until January 2023.
11. On 4 January 2023, OCHA advertised the Position, at the P-5 level, under Job Opening (JO) 198643.⁵
12. On 16 January 2023, Mr. Oketch applied for the Position. A total of 151 candidates applied for the Position, including eight who were rostered.
13. On 20 February 2023, Mr. Oketch was informed via Microsoft Teams by the Acting Director of the Operations and Advocacy Division (OAD) that the hiring manager had decided to select a rostered candidate. Therefore, as Mr. Oketch was not on the roster, he was not further considered for the Position.
14. On 22 February 2023, the recruitment process was finalized, and a rostered candidate (the selected candidate) was selected from the roster.⁶
15. On 23 February 2023, Mr. Oketch received formal notification through *Inspira* that a candidate had been selected from a roster of pre-approved candidates for the Position.⁷

⁴ UNDT Application, Letter from the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator to the Chairperson of the African Union Commission dated 11 February 2020.

⁵ UNDT Application, JO 198643.

⁶ Impugned Judgment, para. 14.

⁷ UNDT Application, Automated e-mail from Inspira to Mr. Oketch dated 23 February 2023.

16. On 19 April 2023, Mr. Oketch requested management evaluation of the “[f]ailure to afford [his] candidacy full and fair consideration following a decision to abandon the competitive selection process that had been initiated and to limit selection from the roster for the [P]osition”.⁸

17. On 30 April 2023, the surge mission concluded, and Mr. Oketch resumed his functions with ERPS in New York.

18. On 23 May 2023, the Management Evaluation Unit (MEU) informed Mr. Oketch by letter that it had determined that the Administration’s decision not to consider him further, as he was not rostered for the Position, was lawful. Accordingly, the MEU upheld the contested decision.⁹

19. On 17 July 2023, Mr. Oketch filed an application with the Dispute Tribunal challenging the contested decision.

Impugned Judgment

20. On 9 August 2024, the Dispute Tribunal issued the impugned Judgment, dismissing Mr. Oketch’s application. The UNDT first identified the issue for consideration as “whether the decision to select a candidate from the roster after the job opening was advertised and [Mr. Oketch] had applied, represent[ed] a failure by the Administration to afford [Mr. Oketch]’s candidacy full and fair consideration”.¹⁰

21. The UNDT found that Mr. Oketch had failed to establish that the selection process for the Position was discriminatory, tainted by extraneous considerations or that he suffered any harm as a result of the contested decision.¹¹

22. In this regard, the UNDT recalled that, in accordance with Appeals Tribunal jurisprudence and Section 9.5 of Administrative Instruction ST/AI/2010/3/Rev. 1 (Staff selection system), the Administration has “the discretion to make a selection decision from candidates included in the roster”.¹² The UNDT further held that the Administration is neither required to assess

⁸ UNDT Application, Management evaluation request dated 19 April 2023.

⁹ UNDT Application, Management evaluation response dated 23 May 2023.

¹⁰ Impugned Judgment, para. 25.

¹¹ *Ibid.*, paras. 34 and 39.

¹² *Ibid.*, para. 30 citing *Charles v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-416, para. 28.

non-rostered candidates, nor obligated to provide any justification for proceeding with a roster-based recruitment.¹³

23. The UNDT also rejected Mr. Oketch's contention that he had a legitimate expectation of receiving special consideration for the Position, given that he had allegedly performed its associated functions for five years. In this regard, the UNDT emphasized that the Position was not a reclassification of Mr. Oketch's role, but rather a newly created post at the P-5 level. The UNDT further noted that the terms of reference for the surge mission clearly stipulated that his redeployment was intended to conclude in January 2023.¹⁴

24. Last, the UNDT found that Mr. Oketch's claim of being denied equal pay for equal work – on the grounds that he had performed the functions of a P-5 position for several years without receiving a special post allowance – was outside the scope of review of the application before it, and, therefore, could not be considered.¹⁵

Procedure before the Appeals Tribunal

25. On 8 October 2024, Mr. Oketch filed an appeal against the impugned Judgment with the Appeals Tribunal, to which the Secretary-General responded on 9 December 2024.

Submissions

Mr. Oketch's Appeal

26. Mr. Oketch requests the Appeals Tribunal to reverse the impugned Judgment and direct the Administration to activate "Sections 20.1 and 11.1(a) of ST/AI/2010/3/Rev. 1 to find [him] another commensurate position".¹⁶

27. Mr. Oketch submits that the UNDT selectively addressed the parties' submissions regarding his responsibilities, disregarding relevant facts related to the duties he performed at OCHA as well as his exemplary performance record. He argues that his "longstanding contribution/incumbency (...) in higher level functions (...) required of the [UNDT] to subject the

¹³ Impugned Judgment, paras. 31-33.

¹⁴ *Ibid.*, paras. 35-36.

¹⁵ *Ibid.*, para. 37.

¹⁶ Appeal brief.

exercise of managerial discretion in resorting to the roster in [the] recruitment to at least an opportunity to compete, absent a compelling case”.

28. Mr. Oketch contends that the creation of the Position effectively amounted to a reclassification of his existing role. He further argues that the UNDT’s characterization of his role in Addis Ababa as “temporary” is misleading.

29. Mr. Oketch reiterates that he had a legitimate expectation of promotion based on his longstanding position as OiC of the AULO and as OCHA’s Representative to the African Union. He further claims that the Administration’s failure to interview him for the Position amounted to a “denial of an opportunity for promotion”.

30. Mr. Oketch submits that there was no urgency justifying resorting to roster-based recruitment for the Position, particularly in light of the fact that he was already performing the functions associated with the Position.

31. Mr. Oketch asserts that the Administration was under an obligation to find him an alternative position in accordance with Sections 10.2 and 11.1(a) of ST/AI/2010/3/Rev. 1.

32. Mr. Oketch disputes the UNDT’s finding that he suffered no harm as a result of the contested decision. He asserts that, in reaching this conclusion, the UNDT failed to consider the impact that the removal of his “representative functions” had on him.

33. Last, Mr. Oketch submits that the UNDT misrepresented several facts of the present case. Specifically, he claims that the UNDT erred in stating that he was reassigned to ERPS in New York, when he had always been in ERPS and was only laterally transferred from Addis Ababa to New York. He also disputes the UNDT’s finding that he “was among the personnel redeployed to Addis Ababa as part of a ‘surge mission’ to support the re-establishment of the AULO”,¹⁷ noting that he was, in fact, the only staff member redeployed for that purpose. Furthermore, he challenges the UNDT’s reliance on the Secretary-General’s assertion of urgency to fill the Position. Finally, Mr. Oketch argues that the UNDT erred in stating that, on 30 April 2023, he returned to his duties with ERPS in New York, “without acknowledging the truncation of [his] functions”.

¹⁷ Impugned Judgment, para. 8.

The Secretary-General's Answer

34. The Secretary-General requests the Appeals Tribunal to dismiss the appeal in its entirety.

35. The Secretary-General contends that the UNDT correctly concluded that the contested decision was lawful.

36. The Secretary-General submits that Mr. Oketch failed to demonstrate any error of law or fact warranting the reversal of the impugned Judgment but is merely seeking to impermissibly relitigate the case. The Secretary-General argues that the appeal should be dismissed on this ground alone.

37. The Secretary-General contends that even if the Appeals Tribunal were to consider Mr. Oketch's arguments, they lack merit. In this regard, the Secretary-General argues that the UNDT appropriately considered the parties' submissions. The Secretary-General adds that Mr. Oketch's mere disagreement with the UNDT's rejection of his contention – that he had a legitimate expectation of receiving special consideration for the Position, given that he had performed its associated functions for five years – fails to demonstrate any error in the impugned Judgment. The Secretary-General highlights that Mr. Oketch was not performing the functions associated with the Position, which was “at a level higher (...) and involved responsibilities that were significantly broader in scope [than his] responsibilities”. Regardless, the Secretary-General submits that even if Mr. Oketch had been performing all the functions related to the Position, he would still not have had any entitlement to promotion under the applicable legal framework.

38. Turning to Mr. Oketch's argument that the UNDT failed to consider the impact of the removal of his “representative functions”, the Secretary-General asserts that this intended impact remains unclear. The Secretary-General further argues that the UNDT's conclusion – that Mr. Oketch had not suffered any harm from the contested decision – was related to his initial claim for compensation, a relief that is no longer sought on appeal. In any event, the Secretary-General recalls that, in the absence of any illegality, no compensation can be awarded.

39. The Secretary-General contends that the Administration had no obligation to find Mr. Oketch another suitable position, since the creation of the Position did not constitute a reclassification of his role.

40. The Secretary-General submits that the Administration's discretion to select a candidate from the roster is not limited to compelling or urgent cases. Notwithstanding, the Secretary-General observes that, in the present case, the record demonstrates that there was an urgency justifying resort to roster-based recruitment "following the decision to re-establish the AULO in Addis Ababa and to have the office operational in a timely manner".

41. The Secretary-General contends that the UNDT correctly concluded that Mr. Oketch's right to be afforded full and fair consideration in the selection process was not violated, as the Administration had the discretion to select a candidate from the roster and was not required to first review all non-rostered candidates. In this regard, the Secretary-General notes that the requirement to review the applications of non-rostered candidates, as outlined in Section 9.4 of former Administrative Instruction ST/AI/2006/3 (Staff selection system), was expressly removed from the current text of ST/AI/2010/3/Rev. 1. The Secretary-General further highlights that paragraphs 9 and 10 of Section II of General Assembly resolution 61/244 specifically provide that "pre-screened rosters can considerably expedite the recruitment process in the United Nations" and request "the Secretary-General to promote the full utilization of existing rosters for recruitment and to further elaborate the use of pre-screened rosters".

42. Last, regarding Mr. Oketch's argument that the UNDT misrepresented several facts of the present case, the Secretary-General submits that Mr. Oketch failed to demonstrate how these alleged errors were manifestly unreasonable or had an impact on the outcome of the case.

Considerations

43. The primary issue in this appeal is whether the UNDT correctly held in its review of the administrative decision taken that the Staff Regulations and Rules were followed, and Mr. Oketch was given fair and adequate consideration regarding his unsuccessful application for the Position.¹⁸

44. Our review of the UNDT's decision is limited to determining whether the first instance tribunal exceeded its jurisdiction or competence; failed to exercise jurisdiction vested in it; erred on a question of law; committed an error in procedure which affected the decision; or erred on a question of fact in such a way as to result in a manifestly unreasonable decision.¹⁹

¹⁸ *Abbassi v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-110, para. 23.

¹⁹ Article 2(1) of the Appeals Tribunal Statute.

45. Mr. Oketch's appeal focuses on a claim that the UNDT erred in its assessment of the facts, leading it to wrongly conclude that he had been given fair and adequate consideration. To assess that claim, we begin with a review of the applicable Staff Regulations and Rules and then examine whether Mr. Oketch had been given full and fair consideration under those rules.

46. In 2006, the United Nations General Assembly expressed its formal recognition of the value of using "pre-screened rosters" and specifically requested the Secretary-General to "promote the full utilization of existing rosters for recruitment".²⁰ Thereafter, the Administrative Instruction for staff selection was amended to expressly provide that candidates who have been placed on a roster following review and endorsement by a central review body and approval by the head of entity "may be selected by heads of entity for a subsequent job opening without [further] reference to a central review body".²¹ This Administrative Instruction was a departure from the prior rule, which had provided that selection from a roster could be made only "*after* the programme manager [had] reviewed the applications of new candidates for a vacancy".²² The 2010 amendment thus removed the requirement that other applications had to be reviewed prior to selection from a roster.²³

47. The procedures applied to fill the Position sought by Mr. Oketch were consistent with the applicable rules. Although OCHA advertised the Position without any pre-determined restriction to rostered candidates, and received some 151 applications, it decided to select a rostered candidate (who had also applied for the Position), thus excluding Mr. Oketch and many others from any possibility of consideration.

48. While this change in approach raised an understandable concern for Mr. Oketch, OCHA acted well within its prerogative. ST/AI/2010/3/Rev. 1 clearly permits this course of action, as directly held by this Tribunal in previous matters. As the Appeals Tribunal held over a decade ago in *Skourikhine*, "this is not a case where the written law is silent or has to be interpreted because it is not explicit. The plain wording of Sub-sections 9.4 and 9.5 [of ST/AI/2010/3/Rev. 1] makes it clear that the head of department/office has the discretion to make a selection decision from candidates included in the roster".²⁴

²⁰ General Assembly resolution 61/244, paras. 9-10.

²¹ Sections 1(q) and 9.5 of ST/AI/2010/3/Rev. 1.

²² Section 9.4 of ST/AI/2006/3 (emphasis added).

²³ *Skourikhine v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-468, para. 33.

²⁴ *Skourikhine* Judgment, *op. cit.* See also *Charles* Judgment, *op. cit.*, paras. 28-29.

49. In light of this legal framework, we turn to Mr. Oketch's contention that the UNDT erred in its assessment of whether he had been given fair and adequate consideration. In this inquiry, we bear in mind the broad discretion afforded to the Secretary-General in making decisions regarding promotions and appointments, and that "it is not the role of the UNDT or the Appeals Tribunal to substitute its own decision for that of the Secretary-General regarding the outcome of the selection process".²⁵ This approach is reinforced by the well-established presumption that "official acts have been regularly performed. (...) If the management is able to even minimally show that the Appellant's candidature was given a full and fair consideration, then the presumption of law stands satisfied. Thereafter the burden of proof shifts to the Appellant who must show through clear and convincing evidence that [he/]she was denied a fair chance of promotion".²⁶

50. Mr. Oketch contends in his appeal that the UNDT failed to give due consideration to the factual support that existed to show the quality of his job performance after his redeployment to Addis Ababa; his expectation of promotion based on his past position and performance; and the harm he claims to have suffered as a result of being denied the Position. He contends that these facts, taken together, support a claim that he was denied full and fair consideration for the Position, rendering the selection of a candidate from the roster improper.

51. To the extent these arguments simply repeat or revise Mr. Oketch's arguments to the UNDT, they are procedurally improper and rejected. An appeal to the UNAT is "not an opportunity for an unsuccessful party to reargue his or her case".²⁷ Rather, Mr. Oketch must demonstrate defects in the impugned Judgment and not merely repeat or embellish arguments made before the UNDT.²⁸

52. With respect to Mr. Oketch's argument that the Administration was obliged to find him an alternative position, this argument is misplaced. The creation of the Position did not constitute a reclassification of the post he held. Accordingly, the Administration was under no obligation to find him another suitable position.

53. Furthermore, Mr. Oketch alleges that the UNDT made several factual errors or misrepresentations of facts in the impugned Judgment. However, such alleged errors, if any, did

²⁵ *Abbassi Judgment, op. cit.*, para. 24.

²⁶ *Rolland v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-122, para. 26.

²⁷ *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-744, para. 37.

²⁸ *Ilic v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-051, paras. 29 and 37.

not result in a manifestly unreasonable decision, as required by Article 2(e) of the Appeals Tribunal Statute. They are, therefore, irrelevant to the core issue of the selection decision.

54. In any event, given the specific circumstances of the present case – where the applicable legal framework expressly grants the Administration the discretion to select candidates directly from a roster – and in view of the fact that Mr. Oketch was not included on that roster, we find that the Administration met its burden of minimally demonstrating that Mr. Oketch’s candidature received full and fair consideration. The record shows that due to an urgent need to fill the Position, the hiring manager first reviewed the rostered candidates. Of the eight rostered candidates, two were found to meet all the requirements for the Position and one was eventually selected. As correctly noted by the UNDT, it is well-settled jurisprudence that: i) the Administration has the discretion to make a selection decision from candidates included in a roster; and ii) there is no requirement for the Administration to first review all non-rostered candidates, such as Mr. Oketch, regardless of their past performance or expectations. In making a selection decision, the Administration has discretion to consider a variety of considerations, as long as the exercise of that discretion is judicious and not abusive, arbitrary, discriminatory, or irregular.²⁹ In the present case, there is no evidence of any impropriety in the Administration’s exercise of its discretion.

55. To succeed on appeal, Mr. Oketch was required to show by clear and convincing evidence that he was denied a fair chance of selection.³⁰ However, his arguments did not meet such a burden. In the absence of any evidence showing that the OCHA’s decision was based on a discriminatory or biased motive, it was not an error for the UNDT to find the contested decision to be permissible, notwithstanding Mr. Oketch’s equitable contentions.

²⁹ *Elzarov v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-893, paras. 38 and 41.

³⁰ *Leonid Dolgoplov v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1497, paras. 43-44; *Ngokeng v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-747, para. 34; *Rolland* Judgment, *op. cit.*, para. 26.

Judgment

56. Mr. Oketch's appeal is dismissed, and Judgment No. UNDT/2024/049 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 27th day of June 2025 in New York, United States.

(Signed)

Judge Ziadé, Presiding

(Signed)

Judge Savage

(Signed)

Judge Sandhu

Judgment published and entered into the Register on this 26th day of August 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar