



UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NBI/2024/063
Judgment No.:	UNDT/2025/079
Date:	27 October 2025
Original:	English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

RUDOLF JOCONDO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Sètondji Roland Adjovi, *Etudes Vihodé Ltée*
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Counsel for Respondent:

Lucienne Pierre, DAS/ALD/OHR, UN Secretariat
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Introduction and procedural background

1. By application filed on 15 October 2024, the Applicant, Chief, Office of the Director-General, United Nations Office at Nairobi, contests the decision to not select him for the position of Head of Office, Political Affairs, D-2, Job Opening (“JO”) No. 222830 at the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (“MINUSCA”).

2. The Respondent submitted a reply on 22 November 2024, where he argued: that the contested decision was lawful; the Applicant’s candidacy was duly considered; and he was included on the list of recommended candidates for further review by the Senior Review Group (“SRG”).

3. Pursuant to Order No. 178 (NBI/2025), dated 6 October 2025, the Tribunal decided that an oral hearing was not necessary to a fair and expeditious resolution of the case and directed the parties to file closing submissions by 17 October 2025, which they did.

Facts

4. The Job Opening was posted for the period 30 November 2023 to 14 December 2023. The Applicant applied for the JO on 13 December 2023 and was interviewed on 15 February 2024.

5. On 7 June 2024, the MINUSCA Recruitment Section informed him that his application was unsuccessful. This is the contested decision.

6. The Applicant requested management evaluation of the contested decision on 10 June 2024, and on 17 July 2024, the Under Secretary-General, Department of Management Strategy and Policy Compliance (“USG/DMSPC”) upheld the contested decision.

Parties' submissions

7. The Applicant's principal contentions are:

- a. The Hiring Manager had a different agenda than one of fairness for all applicants and decided who to recruit before the recruitment was even initiated.
- b. The Applicant is from an under-represented country, but he was not given priority consideration, while the selected candidate is from an over-represented country. In addition, the Applicant is approximately two years from retirement, whereas the selected candidate was only at the P-5 level at the time.
- c. The selected candidate does not meet any of the priority and preferential selection criteria.
- d. "It seems that [the Hiring Manager] tried to amend the results of the interview to suit her hidden agenda of pre-selection of the favoured candidate in total disregard of the fairness of the recruitment."
- e. There was irregularity in the composition of the interview panel. The Hiring Manager supervises all interview panel participants, and the Human Resources Unit totally sidelined itself with no *ex officio* member participating in the panel's deliberations following the interview process.
- f. The Administration took the process off the online platform ("INSPIRA") making it difficult to track the actions for transparency.
- g. Contrary to the established practice across the Secretariat, and in MINUSCA in particular, most of the interview questions for JO No. 222830 were in French, with only two questions asked in English, as if the panel was attempting to favour a non-English speaking candidate.

8. The Respondent's principal contentions are:

a. The recruitment process adhered to established protocols, and was conducted fully and fairly, resulting in the inclusion of the Applicant's candidacy among the recommended list, along with two other candidates.

b. The final submission to the SRG included information on nationality and gender distribution in MINUSCA, ensuring that these aspects received appropriate consideration in line with organizational policies on diversity and inclusion. While the selection exercise considers geographical distribution as a factor, it does not serve as the primary determinant of the selection decision, which remains identifying the most suitable candidate for the position.

c. Promotions within the United Nations system are not solely determined by a candidate's current grade, but by the necessity of securing the highest standards of efficiency, competence and integrity. The selected candidate met all criteria for the D-2 position, as confirmed by the assessment Panel and the SRG.

d. Contrary to the Applicant's claim, the SRG reviewed the entire selection process, confirming the adherence to all established evaluation criteria and following all procedures. The recommendations to the Secretary-General were based on a thorough assessment of each candidate's merits.

e. The Applicant's claim that the Hiring Manager attempted to alter interview results is unfounded. The submission to the SRG contained a comprehensive evaluation of each of the recommended candidates, as well as statistics on the composition of staff at the D-1 and D-2 levels within MINUSCA.

f. There were no irregularities in the interview panel. An *ex-officio* member from Human Resources did participate in the competency-based interviews, although they were not present during the final deliberations of the selection panel members. This absence does not indicate any procedural

violation, as the presence of the ex-officio member is not mandatory nor does it compromise the overall integrity and transparency of the process.

g. The interview process was conducted in both English and French, reflecting the bilingual requirements and operational needs of the position in line with established practice. As a mission in a Francophone country, it is standard and necessary for some questions to be posed in French to assess candidates' proficiency in both official languages, ensuring their capability to fulfil the role's duties effectively. All candidates were assessed uniformly using the same set of questions in both languages, with the aim of providing a balanced evaluation of their competencies and language skills. The approach was neither irregular nor indicative of favouritism, but rather a legitimate reflection of the linguistic demands inherent to the role.

h. The Applicant's contention that he was mischaracterized as failing the competency-based interview is baseless. A comprehensive management evaluation was conducted, examining the relevant facts and supporting documentation. The evaluation confirmed that the assessment panel's findings and subsequent submission by the Head of MINUSCA were reviewed by the SRG. This decision-making process adhered to established protocols, and there is no evidence to support the Applicant's claim of misrepresentation or procedural irregularity.

i. The Respondent refutes the allegations of abuse of authority. The Applicant's candidacy was reviewed thoroughly and fairly, and the selection decision was made within the Secretary-General's discretionary authority.

Consideration

9. Initially, it is important to be clear about the decision that the Applicant challenges in this application. Although the application says that he "contests the decision to not select him for the position of Head of Office, Political Affairs, D-2, JO#222830", he makes several references to a prior recruitment for the same position in JO #181681. According to the record, JO#181681 was cancelled because "there was an insufficient number of candidates found qualified and suitable for the

position by the assessment panel”. The Applicant did not challenge this cancellation and thus it is not properly before the Tribunal. Therefore, his arguments about what occurred in connection with JO #181681 will not be addressed.

10. The Secretary-General has broad discretion in matters of staff selection under art. 101(1) of the Charter of the United Nations and staff regulations 1.2(c) and 4.1. The Charter of the United Nations, the Staff Regulations and Rules, and administrative issuances require the Secretary-General to secure the highest standards of efficiency, competence, and integrity when appointing staff members to the service of the Organization. *Anand* 2024-UNAT-1473, paras. 27 and 42.

11. The starting point when considering administrative decisions is the presumption that official functions have been regularly performed. *Rolland* 2011-UNAT-122, para. 26. This presumption is satisfied where management minimally shows that the staff member’s candidature was given fair and adequate consideration. *Id.* Once management satisfies this initial requirement, the burden shifts to the Applicant to show through clear and convincing evidence that he was not given fair and adequate consideration. *Mohamed* 2020-UNAT-985, para. 38, citing *Lemonnier* 2017-UNAT-762, paras. 31 and 32.

12. In reviewing administrative decisions regarding appointments and promotions, the Appeals Tribunal has established the factors to be considered by the Dispute Tribunal as follows:

- a. whether the procedure as laid down in the applicable legal framework was followed;
- b. whether the staff member was given fair and adequate consideration;
and
- c. procedural irregularities will only result in the rescission of the contested decision when the staff member had a significant chance of selection or promotion. *Chawla* 2024-UNAT-1423, paras. 58 and 59, citing *Abbassi* 2011-UNAT-110, para. 23 and *Bofill* 2011-UNAT-174, para. 28.

13. The Tribunal's role is not to substitute its decision for that of the Administration. If the Administration can show, even minimally, that the applicant's candidature was given a full and fair consideration, then the presumption of regularity applies and the burden of proof shifts to the applicant who must show through clear and convincing evidence that he or she was denied a fair chance of promotion or selection. *Farhadi* 2022-UNAT-1206, paras. 31 and 32.

14. A staff member seeking selection or promotion has a right to be fully and fairly considered through a competitive selection process untainted by improper motives like bias or discrimination. A candidate, however, has no right to a selection or promotion. Therefore, a candidate challenging the denial of selection/promotion must prove through clear and convincing evidence that the procedure was violated, that the members of the panel exhibited bias, that irrelevant material was considered or relevant material was ignored, or potentially other grounds depending on the facts of the case. *Anand*, para. 32.

15. In exercising its discretion to make a selection, the Administration is not restricted to factors or considerations explicitly listed in any governing legal instruments. It may consider all relevant factors, as long as such factors are not arbitrary, irrational or capricious. A hiring manager has the discretion to look beyond the requirements listed in the job opening. *Id.*, para. 36.

16. It is up to the Administration to determine the relative importance of the criteria used to select the staff members who will be promoted. *Id.*, para. 38.

17. The broad discretion of the Administration in staff selections empowers the hiring manager to select from the pool of candidates, the candidate best suited for a particular task or role. The Secretary-General's broad discretion in matters of the appointment of staff members implies the duty to choose the best evaluation method to assess which candidates are most qualified for selection. *Id.*, para. 41.

Procedural Irregularities

18. The Applicant's primary argument in challenging his non-selection is premised on his assertion that he comes from an under-represented country but was

not given priority consideration. Related to this is his claim that the selected candidate “does not meet any of the priority and preferential selection criteria.” The Applicant cites no authority requiring the Organization to give him priority consideration, and the Tribunal was unable to find any such authority on its own.

19. This selection process was governed by ST/AI/2010/3/Rev.2. (Staff Selection System)¹. That administrative instruction mentions “regard to geography” in sec. 1(r), but only in filling vacancies “up to and including the D-1 level”. The challenged recruitment was for a D-2 vacancy. The only strictures in sec.1(r) regarding D-2 recruitments are in the final sentence which reads: “Selection decisions for vacancies at the D-2 level are made by the Secretary-General following review by the Senior Review Group.” The same stricture is repeated in sec. 2.4, but neither makes reference to geography as a priority consideration.

20. Section 7.8 provides that “[f]or vacancies at the D-2 level, heads of entity shall submit to the Senior Review Group a shortlist normally containing three names of qualified and suitable candidates, including at least one woman candidate.” It further stipulates that “[i]n making such submission, due regard shall be given to candidates with diverse experience, including career mobility.” Again, any preference or priority based on geography is notably absent.²

21. Finally, sec. 9 of ST/AI/2010/3/Rev.2 addresses the selection decision. Section 9.4 speaks of certain mandatory considerations in filling vacancies up to the D-1 level, such as staff members who are “victims of malicious acts or natural disasters”; “candidates from troop- or police-contributing countries”; or have prior service or employment in field duty stations.

¹ ST/AI/2010/3/Rev.2 was issued on 20 January 2023 and “govern[s] recruitment, placement and promotion in respect of applications for job openings advertised after its issuance, and before 1 February 2024.” ST/AI/2010/3/Rev.3, para. 12.3. The job opening was advertised on 30 November 2023.

² Sec. 7.8 also requires that the submission “shall also include the personal history profile of the shortlisted candidates and statistics on staff at the D-1 and D-2 levels in the entity, including information on nationality and gender.” The Applicant does not claim that the submission did not meet this requirement, and the record shows that it was met.

22. Indeed, the only provision of sec. 9 that applies to D-2 vacancies is found in sec. 9.3 which says:

Recommendations for selection for vacancies at the D-2 level shall be made by the head of entity for review by the Senior Review Group. When the Senior Review Group finds that the evaluation criteria were properly applied and that the applicable procedures were followed, it shall complete its review and provide advice on the recommendations to the Secretary-General for a final selection decision.

Again, the absence of any mention of geography (and under-represented or over-represented countries) negates the Applicant's arguments.

23. The Applicant next claims that there was irregularity in the composition of the interview panel. Specifically, he alleges that the Hiring Manager supervises each of the panel members and that the Human Resources Unit "totally sidelined itself with no *ex officio* member participating in the Panel's deliberations."

24. The Applicant again fails to identify any legal authority that prohibits supervisees of the Hiring Manager from serving as members of an interview panel. Indeed, the selected applicant would report to the Head of Mission, the Head of Mission was responsible for submitting the shortlist of qualified and suitable candidates to the Senior Review Group, and therefore, the Head of Mission was the hiring manager. Given that the recruitment was for a D-2 upper-level position, the interview panel must include staff members at the D-2 or higher level. Under these circumstances, it is not unusual that these upper-level panel members would be supervised by the Head of Mission, and there is nothing irregular about this.

25. As for the argument that no *ex officio* member from Human Resources participated in the panel's deliberations following the interview process, *ex officio* members are a resource to provide technical and procedural advice on relevant Human Resources requirements. There is no requirement that they must be present during the panel deliberations unless an issue arises that needs their advice.

26. The Applicant also claims that the "process was also taken off the online platform (INSPIRA) making it difficult to track the actions for transparency." He

presented no evidence to support this claim, let alone any particulars regarding when the application was taken off-line and how this negatively impacted his application.

27. Finally, the Applicant argues that there was a procedural irregularity in that “contrary to the established practice across the secretariat and in MINUSCA in particular, most of the interview questions for JO #222830 were in French, with only two questions asked in English, as if the panel was attempting to favor a non-English speaker candidate.”

28. In his reply, the Respondent says that

The interview process was conducted in both English and French, reflecting the bilingual requirements and operational needs of the position in line with established practice. As a mission in a Francophone country, it is standard and necessary for some questions to be posed in French to assess candidates' proficiency in both official languages, ensuring their capability to fulfill (*sic*) the role's duties effectively.

29. The Applicant never rebutted this assertion, nor cited any evidence of what he claims to be an “established practice”. Moreover, even if it were correct that more questions were asked in French than in English, this is not a procedural irregularity. The Job Opening expressly stated that “fluency in English and French is required.” It would be neither unusual nor irregular if more of the interview questions were in French rather than English given that the job was in a Francophone nation. Any alleged attempt to favour a “non-English speaker candidate” is disproved by the fact that the Applicant and the selected candidate obtained the same evaluation on language fluency: “The candidate was able to operate effectively in English and French.” Therefore, the Applicant’s conclusion is unsupported and strained at best.

30. Accordingly, the Tribunal finds that there were no procedural irregularities in the challenged selection process.

31. The Applicant also argues that he was not given fair consideration since the Hiring Manager was biased and pressured the interview panel and process to

achieve her desired result. “It is apparent that the HM has a different agenda than one of fairness for all applicants, and she had apparently decided on who to recruit before the recruitment was even initiated.” Further, he says that “it seems that the HM tried to amend the results of the interview, to suit her hidden agenda of pre-selection of the favored candidate in total disregard of the fairness of the recruitment.”

32. However, the Applicant has failed to provide any evidence to show what he alleges to be “apparent” or “seems” to be. No further clarity or explanation of this assertion has been provided, and the Applicant has not submitted any evidence to support the assertion. Thus, the Tribunal is unable to assess the nature of this claim and must reject it.

33. In his application, the Applicant said he would “adduce evidence of possible collusion between those involved in the approval of the final recommendation and the candidate selected.” When directed to produce this evidence in Order No. 159 (NBI/2024), the Applicant submitted the following:

a. The Chair of the Senior Review Group condoned the hiring manager’s decision to ignore the policy on geographic representation and instead recommend, within less than a month, the selection of the second male Cameroonian in a row at D2-level; while the Applicant who successfully served on the same post for more than two years is a citizen of an underrepresented country in the Mission.

b. The Chair of the Senior Review Group further colluded with the hiring manager by submitting to the Secretary-General a shortlist that is intentionally misleading by removing 12 years of relevant work experience in the summary of the Applicant’s work experience. In doing so, both the Hiring Manager and the Chair of the Senior Review Group skewed the process in order to boost the chances of the recommended candidate, who has far more less-relevant experience than the Applicant. Indeed, the latter’s work experience has been duly reflected in his PHP when he applied for the said position twice.

c. The Chair of the Senior Group overtly ignored the fact that all three members of the interview reported directly to the Hiring Manager, in violation of the existing policies.

d. Through this collusion, both the Hiring Manager and the Chair of the Senior Review intentionally misled the Secretary-General in

selecting the less qualified candidate who is also citizen of one of the most represented countries in MINUSCA.

e. This collusion is already established through the existing evidence and the testimony that will be heard at trial.

Obviously, this is not evidence but mere allegations and supposition of “possible collusion”.

34. In a further effort to obtain actual evidence and factual support for the Applicant’s allegations (which are quite serious), the Tribunal ordered him to submit witness statements “setting out in detail and with precision, the facts which that witness would provide in testimony”. Order No 133 (NBI/2025).

35. In response, the Applicant apparently made no attempt to speak to the witnesses or request witness statements from anyone other than himself. Instead, he reiterated his previous conclusory statements adding only that: he “is aware of conversation that [the Hiring Manager] had with [one of the panel members in the previous recruitment] during a visit to the headquarters and [the Hiring Manager] pressed on the other two panel members not to recommend the Applicant”. However, in his own witness statement, the Applicant does not indicate that he will testify to any details of that meeting or even the source of his alleged awareness.

36. As noted by the Tribunal in Order No. 178 (NBI/2025) denying the Applicant’s request for an oral hearing,

At best, the Applicant has only asserted one bit of specific evidence: that a member of the first interview panel (B) invited him to apply for a similar position at MINUSMA. However, even in the light most favourable to the Applicant, this evidence merely shows that B thought the Applicant was a strong candidate. It does not tend to show the existence of any bias, manipulation or collusion. As such, there is no reason to believe that any of the proffered witnesses will provide the testimony for which the Applicant seeks to call them.

37. The burden is on the Applicant to show through clear and convincing evidence that he was not given fair and adequate consideration. What little evidence he has presented is neither clear nor convincing on this issue. Accordingly, the

Tribunal finds that the Applicant has failed to show that he was not given fair and adequate consideration.

38. Since the Applicant has shown neither procedural irregularities nor lack of fair and adequate consideration, the application fails.

Conclusion

39. In view of the foregoing, the Tribunal DECIDES to deny the application.

(Signed)

Judge Sean Wallace

Dated this 27th day of October 2025

Entered in the Register on this 27th day of October 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi