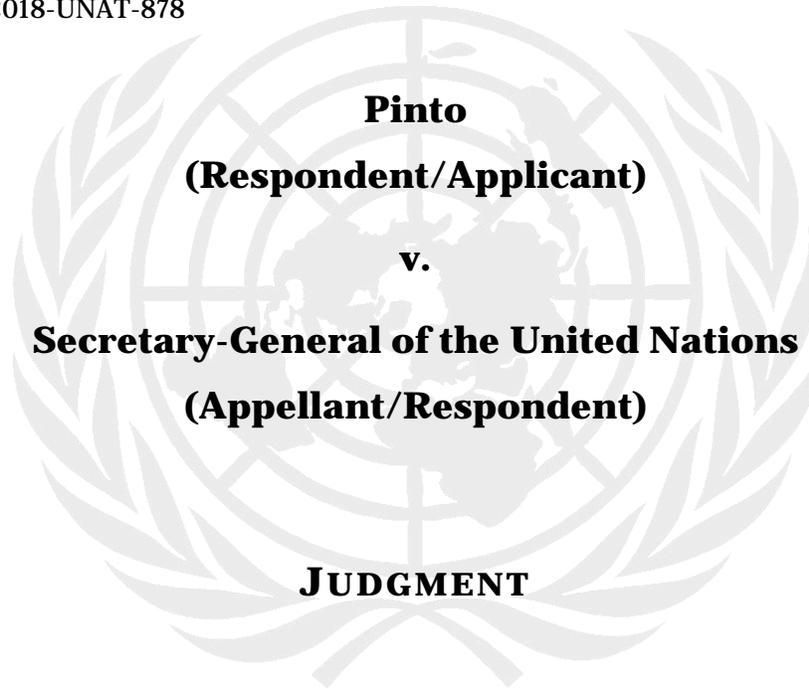




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2018-UNAT-878



**Pinto
(Respondent/Applicant)**

v.

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

JUDGMENT

Before:	Judge Deborah Thomas-Felix, Presiding Judge Dimitrios Raikos Judge Sabine Knierim
Case No.:	2018-1171
Date:	26 October 2018
Registrar:	Weicheng Lin

Counsel for Ms. Pinto: George G. Irving

Counsel for Secretary-General: Amy Wood

JUDGE DEBORAH THOMAS-FELIX, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal against Judgment No. UNDT/2018/020, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York on 20 February 2018, in the case of *Pinto v. Secretary-General of the United Nations*. The Secretary-General filed the appeal on 23 April 2018, and Ms. Anita Pinto filed her answer on 18 May 2018.

Facts and Procedure

2. The following facts are uncontested:¹

... On 6 April 2016, [Job Opening No. 16-PRO-UNOG-57126-R Geneva (the JO)] was issued in Inspira (a United Nations online jobsite) for three posts of Procurement Officer at the P-3 level with the [United Nations Office at Geneva (UNOG)] in the [Procurement and Contracts Unit, Central Support Services (PCU/CSS)] Section, and the deadline to apply for the JO was 5 May 2016.

... The JO included the following requirements:

Education

Advanced university degree in Business Administration, Public Administration, Commerce, Law or other relevant disciplines. A first-level university degree in combination with two additional years of qualifying work experience may be accepted in lieu of the advanced university degree.

Work Experience

A minimum of five years of progressively responsible professional experience in procurement, contract management, administration or related area including preferably three years of experience in the [United Nations] common system. Experience with large scale and complex procurement operations is desirable. Proven experience in at least [three] of the following procurement areas is desirable: i. General goods (vehicles, visibility items, security equipment, vaccines, lab[oratory] equipment), ii. General services (hotels, insurance, transportation, relocation, consultancy, utilities), iii. Information Technology ("IT") (internet, IT equipment and software, web services, telephony), iv. Building (construction, maintenance, leases), and v. Vendor registration ([United Nations Global Marketplace], Business Seminars). Procurement experience for both field missions and headquarters offices as well as experience working with [Enterprise

¹ Impugned Judgment, paras. 3-10.

Resource Planning (“ERP”)] systems in the area of purchasing and/or supply chain is also highly desirable.

Languages

Fluency in oral and written English is required. Knowledge of French is desirable. Knowledge of another [United Nations] official language is an advantage.

... On 26 October 2016, the Applicant was notified by UNOG that her candidature was eliminated before the assessment exercises took place.

... On 23 December 2016, the Applicant filed a request for management evaluation of the contested decision with the Management Evaluation Unit (“MEU”).

... As requested on 3 January 2017, the Administration provided its comments to MEU on 12 January 2017, stating the following relevant facts:

... On 6 April 2016, [the JO] was advertised in [Inspira], with a closing date on 5 May 2016.

... 705 candidates applied for this position and 470 candidacies, including [the Applicant’s], were released by the Human Resources Management Service (HRMS/UNOG) to the Hiring Manager for further evaluation. As per the established practice at CSS, a draft evaluation matrix of these 470 candidacies was done by [two] staff of the CSS/Operations Support Unit (OSU), independently from the Hiring Manager. The draft matrix was further verified by the Head of the [CSS/OSU] before being transmitted to the Hiring Manager.

... Upon review of the candidacies, 178 candidates were found not suitable, 255 were placed on the long list, including [the Applicant] [...].

... [The Applicant’s] candidacy was placed on the long list, as it was determined that, based on [the Applicant’s Personal History Profile (“PHP”)] attached to her application, she met the mandatory criteria, but did not meet all of the [five] desirable criteria to be shortlisted. The evaluation entered in [I]nspira indicated the following:

- Three years of experience in the [United Nations] common system - (meets criteria)
- Experience with large scale and complex procurement operations - (meets criteria)
- Proven experience in at least [three] procurement areas - (meets criteria)
- Procurement experience for both field missions and headquarters offices - (does not meet [criteria])
- Experience working with ERP systems in the area of purchasing and/or supply chain (does not meet [criteria])

... Only candidates in the matrix that met the mandatory and desirable criteria were considered by the Hiring Manager. Accordingly, [the Applicant] was not considered for further evaluation. The 32 candidates that met the mandatory and desirable criteria were invited for a written test on 4 July 2016 [...], and the written test took place from 11 to 13 July 2016. The candidates who passed the written test were invited for a [c]ompetency-based interview. The interviews took place from 22 to 25 July 2016.

... On 27 September 2016, [six] candidates were endorsed by the Central Review Committee [“CRC”]. The selection decisions were made on 25 October 2016 [...], and on 26 October 2016, [the Applicant] was informed that her application was not successful.

... On 12 January 2017, the Administration provided the following additional comments (emphasis omitted):

... As developed below, the Administration notes that the process at CSS for the preparation of matrices is under the responsibility of a unit working directly under the Chief of Service to ensure not only that trained staff complete this complex process but also to ensure full transparency and independence of the [short-listing] processes. The Administration further notes that the information contained on [the Applicant’s] PHP was incomplete and insufficient to determine that she met all the criteria to be shortlisted. It is the responsibility of candidates to provide complete and accurate information as the evaluation of applications is made on the basis of the information submitted in the PHP.

... On a side note, with respect to [the Applicant’s] contentions that she had been previously considered for three “P-4 [P]rocurement [O]fficer” in UNOG, the Administration notes the following:

- i. [The Applicant] was “longlisted” for the JO 32305, Procurement Officer, P[-]4 Strategic Heritage Plan (SHP), and all 178 candidates on the longlist were invited to the written test. [The Applicant] failed the written test and was not invited for a competency based interview.
- ii. [The Applicant] was “shortlisted” for the JO 37216, Procurement Officer, P[-]4 (SHP). [The Applicant] was included in the short list based on two desirable criteria (experience in the [United Nations] common system and knowledge of French). She failed the technical assessment.
- iii. [The Applicant] has also applied for a P-4 “Legal and Contracts Officer” (and not a [P]rocurement [O]fficer) (SHP) (JO 33143), but was not shortlisted.

... Therefore, her assertion that she was considered for “three P-4 Procurement Officer Posts” is incorrect.

... Concerning her assertion that three UNOG internal staff were already sitting on the posts, this is factually incorrect and the Administration notes that only two UNOG staff were recruited under the recruitment process in question, with one staff recruited from the United Nations Office at Nairobi.

... Also, contrary to [the Applicant’s] assertion, the [Secretary-General’s Bulletin] ST/SGB/2016/2 [(Introduction of a new staff selection and managed mobility system)] and the [Administrative Instruction] ST/AI/2016/1 on the “staff selection system and managed mobility [system]” do not apply to her case. The contested selection exercise was made under the provisions of the [Administrative Instruction] ST/AI/2010/3 [(Staff selection system)] on the staff selection system.

... Information contained in [the Applicant’s] PHP

... Sec[.] 7.4 of the ST/AI/2010/3 on the staff selection system provides that “[t]he hiring or occupational group manager shall further evaluate all applicants released to him/her and shall prepare a shortlist of those who appear most qualified for the [JO] based on a review of their documentation”.

... The Manual for the Applicant on the Staff Selection System (2015) also recalls the candidate’s responsibility to submit application containing comprehensive and accurate information, which will serve as the basis for evaluating the eligibility and suitability of a candidate for a [JO]. In particular, the Manual provides that:

In relation to the requirements of the [JO], applicants must provide complete and accurate information pertaining to their qualifications, including their education, work experience, and language skills. Each applicant must bear in mind that submission of incomplete or inaccurate applications may render that applicant ineligible for consideration for the [JO]. Initial screening and evaluation of applications will be conducted on the basis of the information submitted.

... It follows that the Hiring Manager evaluates applicants based on a review of their documentation only, which should be accurate and complete.

... The JO listed as highly desirable work experience “with ERP system in the area of purchasing and/or supply chain”. Upon review of [the Applicant’s] PHP, the Administration notes that she did not mention any experience working with Umoja or with any ERP (Enterprise Resource Planning) system. The only reference to Umoja is in the cover letter where she states that she “completed all required courses in Umoja”; and there is no reference to any experience with an ERP system in her entire PHP.

... The Administration further notes that the statement “completed all required courses in Umoja” remains very generic and does not refer to purchasing and/or supply chain specific training in Umoja. It is to be further noted that in the [s]ection called “[United Nations] Training” of [the Applicant’s] PHP, the listed courses were all done in 2011 or earlier and none of them relates to Umoja or ERP. The candidate’s application did not respond to such criteria and remained incomplete in this regard. The Administration also recalls that Procurement Officers may use the Umoja/ERP system with varying degree of responsibility in the [United Nations] Secretariat depending on whether the Procurement Officer only establishes the contracts and further delegates the issuance of purchase orders to field offices or establishes both the contracts and related purchase orders.

... While [the Applicant] asserts that it was “common knowledge” that she uses Umoja and that accordingly she should have been shortlisted, the Administration notes that “common knowledge” is subjective, cannot be used as a basis to assess almost 500 candidacies, and, if used, may result in different criteria being applied to evaluation of candidates. The Administration also recalls that the draft matrix was prepared by OSU/CSS, and Hiring Managers rely on this administrative support in selection exercises. At the time, the OSU/CSS staff who prepared the matrix had no personal knowledge of [the Applicant] or the functions performed by her.

... Since [name redacted, Mr. K] was not part of the preparation of the draft matrix, he could not have had the intention to exclude [the Applicant] or any other candidate from the draft matrix. Therefore, the Administration submits that [the Applicant’s] “exclusion” from the selection exercise was not intentional, but was merely due to the fact that the information contained in her PHP was incomplete.

... Lastly, the Administration notes that [the Applicant] is already at the P-3 level and that she has not submitted any evidence of harm or moral damage caused by the contested decision.

... On 7 February 2017, the Applicant received the MEU’s response upholding the contested decision.

... On 23 April 2017, the Applicant filed (...) [an application before the UNDT contesting the evaluation process which led to UNOG’s decision not to consider her for an assessment test and interview following her application to the JO].

3. The UNDT rendered its Judgment on 20 February 2018. It found that Ms. Pinto’s application had not been given full and fair consideration. The UNDT reached this conclusion based on its finding that “the Hiring Manager did not personally evaluate her candidacy based on [the entirety of her application (including the cover letter, PHP and two e-PAS reports) which

all have equal value] while formally endorsing the decision of the CSS/OSU not to shortlist [Ms. Pinto)].² The UNDT held that “according to the mandatory provisions of sec. 7.4 of ST/AI/2010/3, only the Hiring Manager (...) has the exclusive competence (“shall”) to evaluate all applicants included in the long list” and such authority may not be delegated to the Recruiter.³ Because in this case the evaluation of the longlisted applicants against the desirable and highly desirable criteria contained in the JO was done by the CSS/OSU rather than the Hiring Manager, the Administration failed to follow the steps set out in ST/AI/2010/3 as well as in “The Recruiter’s Manual” and “The Hiring Manager’s Manual” on the Staff Selection System, which the UNDT considered to be “binding” on the Administration.⁴

4. The UNDT also considered that there was no legal provision in these manuals allowing for “highly desirable” requirements to be included in a JO. Moreover, only the functions described in the “Responsibilities” section of the JO are mandatory and in this case, the requirement of experience related to ERP systems was only contained in the “work experience” section. Therefore, Ms. Pinto should not have been required to demonstrate such experience. In any case, Ms. Pinto’s “work experience described by her PHP appears to reflect (...) activity (...) [related to the] issuance of purchase orders specific to ERP, even if the initials ‘ERP’ were not expressly mentioned”.⁵ In addition, Ms. Pinto’s two prior e-PAS reports submitted as part of her application “clearly indicate[d] that [Ms. Pinto] (...) was already undertaking responsibilities which appear similar to the highly desirable ones indicated in the JO”.⁶ Therefore, the UNDT concluded that Ms. Pinto “appeared to fulfil not only the basic and desirable requirements but also the highly desirable requirements regarding work experience”⁷ and consequently, “the preliminary evaluation of [Ms. Pinto] against the desirable and highly desirable requirements of the JO was not correct”.⁸

5. By way of relief, the UNDT ordered rescission of the decision not to shortlist Ms. Pinto and awarded compensation for moral damages based on Ms. Pinto’s request for “whatever compensation the Dispute Tribunal considers to be fair and reasonable in this case”, finding that

² *Ibid.*, paras. 72 and 73.

³ *Ibid.*, para. 54.

⁴ *Ibid.*, para. 39.

⁵ *Ibid.*, para. 70.

⁶ *Ibid.*, para. 71.

⁷ *Ibid.*, para. 72.

⁸ *Ibid.*, para. 74.

she “suffered moral harm as a result of the unlawful decision which breached her due process right” and of the “Administration’s failure to fully and fairly consider her application”.⁹

Submissions

The Secretary-General’s Appeal

6. The Secretary-General submits that the Administration gave Ms. Pinto’s application full and fair consideration in accordance with the procedures set out in ST/AI/2010/3. The CSS/OSU properly conducted the pre-screening process in accordance with Section 7.2 of ST/AI/2010/3 by reviewing the PHPs to determine which of the remaining candidates after the automatic screening process met the minimum requirements of the JO and established a so-called longlist on this basis which also included Ms. Pinto. The CSS/OSU went on to determine that 32 of the candidates on the longlist met not only the minimum but also all five of the “desirable” criteria set out in the JO. Ms. Pinto was not among those candidates as her PHP was incomplete and insufficient to determine whether she met all the criteria and, in particular, the PHP did not reflect the desired experience with ERP systems. The Hiring Manager then reviewed the applications of the 32 candidates forwarded to him by the CSS/OSU and “finalized” the shortlist of candidates who were subsequently invited to participate in a written test. These actions were in compliance with the procedure set out in Section 7.4 of ST/AI/2010/3.

7. Further, the UNDT erred in concluding that the Hiring Manager’s reliance on the shortlist prepared by the CSS/OSU warranted the rescission of the decision not to shortlist Ms. Pinto. Even if this reliance constituted a procedural irregularity, according to established Appeals Tribunal jurisprudence, such irregularity only results in the rescission of the non-selection decision if the candidate would have had a chance of selection. As Ms. Pinto’s application did not demonstrate that she had the required “highly desired” experience with ERP systems, the alleged procedural flaw in the pre-screening process did not cause her any direct harm and the UNDT consequently erred on a question of law in rescinding the decision not to shortlist her.

8. Moreover, the UNDT erred in law and exceeded its competence by conducting a *de novo* review of Ms. Pinto’s candidacy and by substituting its decision for that of the Administration in a matter of selection and appointment, contrary to the established jurisprudence regarding

⁹ *Ibid.*, paras. 89 and 90.

the proper scope of judicial review. The UNDT engaged in a speculative *de novo* review of her application including the two e-PAS reports when it considered that Ms. Pinto “appeared” to meet all the requirements of the JO although it is uncontroverted that her application did not contain any reference showing that she indeed had the required experience with ERP systems. In contravention of the “presumption of regularity” of administrative acts repeatedly affirmed in the Appeals Tribunal jurisprudence, the UNDT shifted the burden from the candidate to “demonstrate” suitability to the Hiring Manager to “find” suitability.

9. The Secretary-General further argues that the UNDT erred on a question of law in concluding that provisions of the Hiring Manual are binding on the Administration. According to the established jurisprudence of the Appeals Tribunal, binding rules of general application may only be established by duly promulgated Secretary-General’s bulletins and administrative issuances. Therefore, the UNDT erred in attributing binding legal force to the Hiring Manual, for the manuals only refer to mandatory and desirable criteria. The Secretary-General asks for such *obiter dicta* to be stricken from the Judgment.

10. Finally, the UNDT erred on a question of law in awarding compensation for moral damages to Ms. Pinto absent the requisite evidence of harm. In accordance with the clear wording of Article 10(5)(b) of the UNDT Statute and the Appeals Tribunal jurisprudence, a mere purported violation of due process rights in a selection process is not sufficient to warrant moral damages in the absence of concrete evidence of harm. Moreover, Ms. Pinto has not expressly requested compensation for moral harm and the Appeals Tribunal has vacated compensation awards in the past where the applicant had not requested such relief from the UNDT.

11. In light of the foregoing, the Secretary-General requests that the Appeals Tribunal vacate the Judgment in its entirety and strike the *obiter dicta* concerning the binding nature of manuals from the Judgment. Alternatively, if the Appeals Tribunal were to conclude that Ms. Pinto had not been fully and fairly considered, the Secretary-General prays the Appeals Tribunal to vacate the award of moral damages.

Ms. Pinto’s Answer

12. Ms. Pinto submits that the Secretary-General has failed to sustain any of the grounds of appeal contained in Article 2(1) of the Appeals Tribunal Statute.

13. In particular, the UNDT correctly held that Ms. Pinto's candidacy had not been given full and fair consideration. The Secretary-General was unable to explain before the UNDT how Ms. Pinto's candidacy could have received full and fair consideration when it was excluded from consideration at the pre-screening stage for unjustified reasons in disregard of the steps to be followed by the Administration in the selection process. Full and fair consideration required more than simply allowing her to apply, considering that she had all the necessary qualifications for the position, that this was a lateral move within the same occupational group and that she had been found suitable for similar posts before. Ms. Pinto argues that the Secretary-General now concedes that the provisions set out in ST/AI/2010/3 were not followed and fails to cite an authority for the delegation of the task of reviewing the pre-qualified candidates and selecting candidates for the shortlist from the Hiring Manager to two Administrative Assistants.

14. Ms. Pinto asserts that the UNDT correctly concluded that the Hiring Manager's reliance on the shortlist prepared by the CSS/OSU and thus the usurpation of the Hiring Manager's role by clerical staff with no substantive knowledge of the position warranted the rescission of the decision not to shortlist her. The Secretary-General is unable to sustain the implicit suggestion that Ms. Pinto stood no chance of being selected as she had been shortlisted for similar positions and her full employment record clearly reflected a knowledge of and training and experience in ERP systems, principally the Umoja system now used for all procurement activities. The element of ERP experience was not clearly defined and she had affirmatively answered the detailed screening questions which required knowledge of or experience in ERP systems.

15. Further, the UNDT did not engage in a *de novo* review of her *suitability* which required an exercise of judgment but rather a judicial review of the pre-selection process and review of *eligibility* which is a factual determination subject to the UNDT's review. The Secretary-General is trying "to conflate the two decision[-]making processes in order to hide what is clearly an arbitrary assumption that because the [Human Resources] personnel failed to see the words ERP on the application form, they were justified in removing her name". Moreover, it is factually incorrect that her application does not contain any statement demonstrating that she had the required ERP experience. The UNDT rightly considered that she had a right to have not only the application form but her entire application assessed including her actual experience as reflected in her detailed performance reports. Her cover letter and PHP reflected experience that anyone with substantive knowledge (i.e. a Hiring Manager) would have recognized as the highly desirable capacities. A review of the actual records to find that the initial review was procedurally flawed

and factually incomplete does not constitute a *de novo* review by the UNDT. The procedural irregularities were not inconsequential as Ms. Pinto was improperly excluded from further consideration.

16. Moreover, Ms. Pinto maintains that the UNDT did not err on a question of law in concluding that the Hiring Manual is binding on the Administration. The Judgment confirmed the basic premise that once procedures are established to ensure fairness, they should be followed by decision-makers and departures from established practice should not be arbitrary or capricious. Moreover, this issue did not affect the outcome of the case as provisions of the cited manuals merely reflect the requirements set out in Section 7 of ST/AI/2010/3.

17. Ms. Pinto further asserts that the UNDT did not err in awarding moral damages. Considering that she was self-represented before the UNDT and that there is no requirement for an applicant to specify the amount and nature of the compensation sought, her broadly phrased request for compensation was a sufficient basis for the award of moral damages. Under the circumstances, the award was justified and there is no reason for the Appeals Tribunal to call the amount into question.

18. Based on the foregoing, Ms. Pinto requests the Appeals Tribunal to reject the appeal and affirm the Judgment. In addition, she asks for USD 5,000 in costs plus interest from the date of the UNDT Judgment arguing that the Administration delayed the execution of the impugned Judgment and abused the legal process by trying to re-argue the case and resorting to arguments that appear to challenge settled matters of law.

Considerations

19. The central issue in this appeal is whether the UNDT erred on a question of law in finding that Ms. Pinto's candidacy had not been given full and fair consideration.

20. The standard of review of administrative decisions regarding appointments and promotions has been consistently defined as follows:¹⁰

... In reviewing administrative decisions regarding appointments and promotions, the UNDT examines the following: (1) whether the procedure as laid down in the Staff Regulations and Rules was followed; and (2) whether the staff member was given fair and adequate consideration.

¹⁰ *Abbassi v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-110, paras. 23-24.

... The Secretary-General has a broad discretion in making decisions regarding promotions and appointments. In reviewing such decisions, 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.

21. The Appeals Tribunal has further stated that:¹¹

... (...) The burden is on the candidate challenging the selection process to “prove through clear and convincing evidence” that he or she did not receive full and fair consideration of his or her candidacy, the applicable procedures were not followed, the members of the panel exhibited bias, or irrelevant material was considered or relevant material ignored.

22. The UNDT held that by virtue of the mandatory provisions of Section 7.4 of ST/AI/2010/3, only the Hiring Manager had the exclusive competence to evaluate all applicants included in the long list, and that such authority may not be delegated. The UNDT stated that in this case, the evaluation of the applicants placed on the long list was done by the CSS/OSU rather than the Hiring Manager; therefore, the Administration failed to follow the steps set out in ST/AI/2010/3 as well as in “The Recruiter’s Manual” and “The Hiring Manager’s Manual” on the Staff Selection System, which the UNDT considered to be “binding” on the Administration.¹²

23. The UNDT erred in finding that the Hiring Manuals are binding on the Administration since, according to the established Appeals Tribunal jurisprudence, “rules, policies or procedures intended for general application may only be established by duly promulgated Secretary-General’s bulletins and administrative issuances”.¹³ However, the UNDT also based its finding that the Hiring Manager’s reliance on the shortlist prepared by the CSS/OSU constituted a procedural irregularity in terms of Section 7.4 of ST/AI/2010/3 which undisputedly enjoys binding legal authority.

24. Irrespective of whether or not the UNDT erred in finding that the procedure set out in ST/AI/2010/3 was not properly followed, in accordance with the Appeals Tribunal jurisprudence, such irregularity only results in the rescission of a non-selection decision, or, in

¹¹ *Aliko v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-540, para. 30 (internal citations omitted); see also *Ljungdell v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-265, para. 30.

¹² Impugned Judgment, para. 39.

¹³ *Asariotis v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-496, para. 21, citing *Charles v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-286, para. 23, in turn citing Secretary-General’s Bulletin ST/SGB/2009/4 (Procedures for the promulgation of administrative issuances).

this case, of a decision not to shortlist a candidate, if the candidate would have had a significant chance of selection.¹⁴ Ms. Pinto's PHP does not demonstrate the second "highly desirable" criterion of procurement experience for both field missions and headquarters offices. As only those candidates among the 255 remaining candidates on the longlist that met the mandatory and desirable criteria were invited for the next step of the written test, there was only a minimal chance for Ms. Pinto to succeed. The same logic applies to compensation for material damages due to a loss of a "chance" of selection which, according to the Appeals Tribunal jurisprudence, becomes too speculative where the chance is less than ten per cent.¹⁵

25. In light of the foregoing, the UNDT erred in rescinding the decision not to shortlist Ms. Pinto.

26. Moreover, the UNDT erred in awarding moral damages to Ms. Pinto absent the requisite evidence of harm as required by Article 10(5)(b) of the UNDT Statute and the established Appeals Tribunal jurisprudence.¹⁶ A mere procedural violation is not sufficient to warrant moral damages in the absence of concrete evidence of harm.¹⁷

¹⁴ Compare *Bofill v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-174, para. 28; *Vangelova v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-172, para. 19.

¹⁵ *Hastings v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-109, para. 2.

¹⁶ *Maiga v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-638, para. 30.

¹⁷ *Nchimbi v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-815, para. 29.

Judgment

27. The appeal is granted and Judgment No. UNDT/2018/020 is hereby vacated.

Original and Authoritative Version: English

Dated this 26th day of October 2018 in New York, United States.

(Signed)

Judge Thomas-Felix,
Presiding

(Signed)

Judge Raikos

(Signed)

Judge Knierim

Entered in the Register on this 20th day of December 2018 in New York, United States.

(Signed)

Weicheng Lin, Registrar