



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

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Judgment No. 2021-UNAT-1100

**Marius Mihail Russo-Got  
(Appellant)**

**v.**

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

**JUDGMENT**

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Before:	Judge Martha Halfeld, Presiding Judge Graeme Colgan Judge Kanwaldeep Sandhu
Case No.:	2020-1417
Date:	19 March 2021
Registrar:	Weicheng Lin

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Counsel for Appellant:	Self-represented
Counsel for Respondent:	André Luiz Pereira de Oliveira

**JUDGE MARTHA HALFELD, PRESIDING.**

1. Mr. Russo-Got joined the United Nations Office for Project Services (UNOPS) in New York in 2016 on a fixed-term appointment (FTA), which was extended through mid-2018. His post was abolished and in this application to the United Nations Dispute Tribunal (Dispute Tribunal or UNDT), he challenged the decisions not to select him for two other vacant posts. In its Judgment, the Dispute Tribunal rejected Mr. Russo-Got's application, after having found that there was adequate contemporaneous written documentation to minimally show that he had received a full and fair consideration during the selection exercises, and that Mr. Russo-Got had failed to rebut that finding with clear and convincing evidence. In this Judgment, the United Nations Appeals Tribunal (Appeals Tribunal or UNAT) affirms this decision.

**Facts and Procedure**

2. Mr. Russo-Got joined UNOPS in New York effective 1 August 2016 as a P-3 Project Manager initially on a one-year FTA, which was extended for another year through 31 July 2018.

3. On 29 June 2018, Mr. Russo-Got was informed that his post would be abolished, and his FTA would not be renewed beyond 31 July 2018. On 27 July 2018, he filed a request for management evaluation of the abolition of his post and the non-renewal of his FTA.

4. On 1 August 2018, Mr. Russo-Got and UNOPS reached a settlement agreement. Under that agreement, UNOPS undertook to "send to [Mr. Russo-Got] all vacancy announcements for the UNOPS projects" during the period (1 December 2018-31 January 2019). Under that agreement, Mr. Russo-Got undertook to "submit his applications for those vacancies that he is interested in". He also agreed that UNOPS would have no obligation, financial or otherwise, towards him in respect of the claims that he had raised in his management evaluation request. While the settlement agreement was marked confidential, Mr. Russo-Got submitted it as part of his application to the Dispute Tribunal.

5. To facilitate the implementation of the settlement agreement, the Chief of Regional Technology Center of Americas agreed to take Mr. Russo-Got under his supervision for six months from 1 August 2018 to 31 January 2019. An *ad hoc* position was created for this purpose. But there was no further funding available to support that position beyond 31 January 2019.

6. On 21 August 2018, Mr. Russo-Got applied for a vacancy announcement (VA) for Business Development Specialist at the P-3 level. On 3 October 2018, he applied for the position of Process Design Advisor at the P-4 level. He was subsequently selected to take a written assessment separately for each of the two posts, but he did not pass those tests. His candidacy for the two posts was consequently not advanced to the next phase of the selection process. This forms the subject of the present appeal.

*Business Development Specialist at the P-3 level*

7. Between 17 August 2018 and 30 August 2018, UNOPS circulated a VA for multiple positions of Business Development Specialist at the P-3 level under an FTA for one year subject to extension.

8. Mr. Russo-Got applied and was invited to a 1 ½ hour written assessment exercise on 9 November 2018. He submitted his assessment on time.

9. On 13 November 2018, an UNOPS human resources officer sent the test results including Mr. Russo-Got's to two graders for assessment. The human resources officer advised the graders that the test consisted of three questions, with Question One weighing 50 points, and Questions Two and Three weighing 25 points each, and that 60% was the passing threshold.

10. On 28 November 2018, the graders sent their assessment back to the human resources officer. Seven candidates had taken the test, and their test papers had been given to the graders anonymously with an English letter assigned to each candidate. Mr. Russo-Got was assigned "A". The grading table showed that, for his test, Mr. Russo-Got received 59% from one grader and 25% from the other grader for an average total of 42% (59+25/2), below the 60% passing threshold. The grading table also showed that three candidates passed the test whereas four candidates including Mr. Russo-Got failed the test.

11. One grader made specific comments on Mr. Russo-Got's test: "The candidate answer is quite general and somehow focus on technical aspects"; "Once again very technical responses focused on data conversion rather than data transformation without any business or solution impact assessment"; "Most of these challenges listed by the candidate are not directly related to the transformation activity. Challenges anticipated would be lack of consensus amongst stakeholders around the new data model, impact on the current solution

design etc ...”; “Duplicate responses, [the candidate] did not take time to read and correct his submission”; “The candidate seems to be challenged by all the aspects of project management and this raises serious concerns about his project management skills”; and “Very generic text book examples without any explanation of when the candidate used them and why they were effective”.

12. The other grader’s hand-written comments are as follows: “Significant portion of his answer was spent on explaining the importance of MD, not the approach. And in the approach following were missing: 1. MD reg. for SCM[;] 2. How time would be spent understanding the inadequacies”; “This is not a data conversion exercise alone”; “Challenges are very generic to ERP not specific to MD”; and “This answer needs to be personal challenges with project implementation”.

13. On 28 November 2018, the UNOPS human resources officer informed Mr. Russo-Got that he did not pass the test and that his candidacy would not be further considered.

14. Upon request from UNOPS for complementary information about the grading given to Mr. Russo-Got’s written test (Candidate A), one of the graders stated, on 11 December 2018,

I confirm the grading I submitted as the candidate demonstrated very little understanding of the supporting information and his answers were either quite generic or focused on the technical aspect of the problem. He was not a suitable candidate for this position and other candidates provide much stronger answers.

*Process Design Advisor at the P-4 level*

15. Between 25 September and 9 October 2018, UNOPS circulated another VA for Process Design Advisor at the P-4 level under a one-year FTA subject to extension.

16. Mr. Russo-Got applied and was invited to a 2-hour written assessment exercise on 20 November 2018. He submitted his assessment on time.

17. On 20 November 2018, the UNOPS human resources officer sent the test results from seven candidates to two graders for assessment. The human resources officer advised the graders that the test consisted of five questions, with the first set of three questions weighing 60 points, and the second set of two questions weighing 40 points, and that 65% was the passing threshold.

18. On 26 November 2018, one grader sent the assessment score to the human resources officer. The other grader sent in his assessment score on 7 December 2018. The test papers by the seven candidates had been given to the graders anonymously with an English letter assigned to each candidate. Mr. Russo-Got was assigned “F”. He received an average of 52.5%, below the 65% passing threshold (50% from one grader, and 55% from the other grader). The grading table showed that three candidates passed the test whereas four candidates including Mr. Russo-Got failed the test.

19. On 11 December 2018, the UNOPS human resources officer informed Mr. Russo-Got that he did not pass the test and that his candidacy would not be further considered.

20. According to the Respondent, UNOPS provided Mr. Russo-Got with appropriate postings and Mr. Russo-Got thanked the Human Resources Office for the efforts. He applied for a total of 29 positions, including the above-referenced P-3 and P-4 posts. But he failed the tests for the P-3 and P-4 positions and could not be reassigned to any of the remaining 27 posts for a variety of reasons.

21. On 16 January 2019, Mr. Russo-Got’s supervisor informed him of the non-renewal of his FTA beyond its expiry date of 31 January 2019. He received a formal letter of notification to that effect from a UNOPS human resources specialist on 22 January 2019.<sup>1</sup>

22. On 24 January 2019, Mr. Russo-Got raised a management evaluation request challenging the decisions not to select him for either the P-3 Business Development Specialist or the P-4 Process Design Advisor.

23. On 30 January 2019, Mr. Russo-Got received a letter from the UNOPS General Counsel upholding the contested decisions.

24. On 5 February 2019, Mr. Russo-Got filed an application with the Dispute Tribunal to contest his non-selection for either the P-3 Business Development Specialist or the P-4 Process Design Advisor.

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<sup>1</sup> Non-renewal of Mr. Russo-Got’s FTA is a separate case that the Appeals Tribunal reviewed during the 2021 Spring Session. For detail, see Judgment No. 2021-UNAT-1090.

25. In Judgment No. UNDT/2020/075/Corr.1 dated 28 May 2020, the Dispute Tribunal rejected Mr. Russo-Got's application. It reviewed the two impugned selection exercises but found no irregularities. In respect of the P-3 Business Development Specialist post, the UNDT found that UNOPS had produced adequate contemporaneous written documentation to minimally show that Mr. Russo-Got had received a full and fair consideration during the selection exercise, and that Mr. Russo-Got had failed to rebut that finding with clear and convincing evidence. Regarding the P-4 Process Design Advisor post, the Dispute Tribunal made the same finding.

26. On 2 June 2020, Mr. Russo-Got filed an application with the Dispute Tribunal seeking an interpretation of paragraphs 14 to 17 of Judgment No. UNDT/2020/075/Corr.1.

27. In a subsequent Judgment on Interpretation No. UNDT/2020/083 dated 3 June 2020, the Dispute Tribunal rejected Mr. Russo-Got's application for interpretation as inadmissible, because paragraphs 14-17 as well as the remaining parts of the questioned Judgment were "straightforward and easy to understand".<sup>2</sup> The Dispute Tribunal observed that Mr. Russo-Got's application for interpretation was "nothing but frivolous and only serve[d] to waste valuable judicial resources".<sup>3</sup>

28. Mr. Russo-Got appealed Judgment No. UNDT/2020/075 on 25 July 2020. The Secretary-General filed an answer on 25 September 2020.

## **Submissions**

### **Appellant's Appeal**

29. Mr. Russo-Got requests that the Appeals Tribunal reverse the fact findings of the Dispute Tribunal or remand the case to the UNDT for additional fact findings. He also requests that the Appeals Tribunal rescind the "unlawful" decisions not to select him for either the P-3 Business Development Specialist post or the P-4 Process Design Advisor post. In terms of compensation, Mr. Russo-Got seeks restitution of his salary and associated benefits from 31 January 2019 to the date of his reappointment, moral damages, partial reimbursement of the cost for his medical treatment, legal costs, and moral damages for a

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<sup>2</sup> Judgment No. UNDT/2020/083, para. 6.

<sup>3</sup> *Ibid.*, para. 7.

lost career opportunity, damage to his professional reputation, and the harm resulting from the failure to find him an alternative post.

30. Mr. Russo-Got maintains that the Dispute Tribunal committed all the errors as enumerated in Article 2 of the UNAT Statute. It failed to examine the entirety of the evidence. The Dispute Tribunal failed to find that there were significant procedural irregularities in the selection exercises, in that UNOPS failed to prove with a minimal contemporaneous and credible evidence that he was candidate “A” for the P-3 Business Development Specialist assessment exercise or candidate “F” for the P-4 Process Design Advisor assessment exercise; the undated grading documents and the e-mail announcements of his non-selection were no contemporaneous written documentation but they were made *ex post facto* for the sole purpose of the present proceedings; the documents that the Respondent has produced have no connection with each other; they are “fake” documents.

31. Contrary to the UNDT’s findings, Mr. Russo-Got had challenged the authenticity of the test scores, the quality of the grading methodology, the competence and professionalism of the graders, the unacceptable differences in grading between the two graders, the failure of the short listed and selected candidates to meet the education requirements and their suspected plagiarism, and the lack of contemporaneous written records, etc. According to a staff member who wishes to remain anonymous, Mr. Russo-Got’s test results for both positions were good and his candidacy should have proceeded to the next phase of the selection process. Two independent internationally known reviewers put Mr. Russo-Got’s tests at 80 % at a minimum.

32. The Dispute Tribunal also erred when it concluded that there was no violation of Mr. Russo-Got’s basic rights. Mr. Russo-Got maintains that UNOPS failed to reassign him to a suitable position as it did for his colleagues in a similar situation. It also failed to give his candidacy the full and fair considerations for either of the two positions and unjustifiably excluded his candidacy from the selection process, in violation of his fundamental rights and the principle of equal opportunities.

### **The Secretary-General’s Answer**

33. The Secretary-General requests that the Appeals Tribunal dismiss Mr. Russo-Got’s appeal and affirm the UNDT Judgment.

34. The Secretary-General submits that the Dispute Tribunal correctly held that Mr. Russo-Got's candidature for both the P-3 and P-4 positions had received full and fair consideration and there was no evidence of ulterior motive in his non-selection. UNOPS had followed all the applicable procedures required by its legal framework, and the UNDT's findings were in accord with the relevant jurisprudence and the facts and evidence on record.

35. The Secretary-General also submits that, contrary to Mr. Russo-Got's accusation, UNOPS had fully complied with the applicable provisions of the Process & Quality Management System (PQMS) dated 13 April 2020 by documenting both assessments in written form and having Mr. Russo-Got's answers to both tests assessed anonymously by two independent graders. He has failed to show that there were intolerable errors between the graders warranting another assessment under the PQMS, or that the graders harbored bias or improper motives against him, and his claims about the statements made by the internationally recognized reviewers, his good performance during the written assessments and the alleged plagiarism by the selected candidates are not supported by evidence. Mr. Russo-Got was not recommended for selection because he did not pass the technical assessments.

36. The Secretary-General maintains that Mr. Russo-Got's claim that the written assessments did not match the requirement of the P-3 Business Development Specialist position is speculative and unsubstantiated. In addition, he did not raise this allegation before the Dispute Tribunal.

37. The Secretary-General notes that, in the present case, Mr. Russo-Got is also challenging the decisions related to the abolition of his post and UNOPS' failure to find him an alternative position, which are the subject of another proceeding before the Appeals Tribunal. He also notes that all other submissions by Mr. Russo-Got are mere repetition of the arguments that he made before the Dispute Tribunal.

### **Considerations**

38. The main issue for consideration and determination in this judgment is whether the UNDT erred when it found no irregularities in the impugned selection exercises for the posts of Business Development Specialist at the P-3 level and Process Design Advisor at the P-4 level.



39. When it comes to selection exercises, the Charter of the United Nations establishes that: “[T]he staff shall be appointed by the Secretary-General under regulations established by the General Assembly.”<sup>4</sup> In turn, Staff Regulations and Rules of the United Nations (2018) set out the following:

**Regulation 1.2**

**Basic rights and obligations of staff**

**Core values**

(a) Staff members shall uphold and respect the principles set out in the Charter, including faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. Consequently, staff members shall exhibit respect for all cultures; they shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them;

(b) Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status;

**General rights and obligations**

(c) Staff members are subject to the authority of the Secretary-General and to assignment by him or her to any of the activities or offices of the United Nations. In exercising this authority the Secretary-General shall seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them[.]

**Article IV**

**Appointment and promotion**

**Regulation 4.2**

The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

**Regulation 4.3**

In accordance with the principles of the Charter, selection of staff members shall be made without distinction as to race, sex or religion. So far as practicable, selection shall be made on a competitive basis.

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<sup>4</sup> Article 101(1) of the Charter of the United Nations.

**Regulation 4.4**

Subject to the provisions of Article 101, paragraph 3, of the Charter, and without prejudice to the recruitment of fresh talent at all levels, the fullest regard shall be had, in filling vacancies, to the requisite qualifications and experience of persons already in the service of the United Nations. This consideration shall also apply, on a reciprocal basis, to the specialized agencies brought into relationship with the United Nations. The Secretary-General may limit eligibility to apply for vacant posts to internal candidates, as defined by the Secretary-General. If so, other candidates shall be allowed to apply, under conditions to be defined by the Secretary-General, when no internal candidate meets the requirements of Article 101, paragraph 3, of the Charter as well as the requirements of the post.

40. From the outset, it must be established that the circumstances of the present case took place in the latter half of 2018. Thus, even though the Process & Quality Management System (PQMS) was cited in the UNDT Judgment<sup>5</sup> and endorsed by the parties in their submissions, having been dated 13 April 2020, it is not applicable to the present case.

41. In matters regarding appointments and promotions, the Appeals Tribunal has established in *Savado* that the factors to be considered are: (1) whether the procedure as laid down in the Staff Regulations and Rules was followed; (2) whether the staff member was given fair and adequate consideration, and (3) whether the applicable regulations and rules were applied in a fair, transparent and non-discriminatory manner. The tribunal's role is not to substitute its decision for that of the administration.<sup>6</sup>

42. The burden of proof rests with the person making the allegation of improper motive, such as bias, in light of the presumption of regularity of administrative acts, and the fact that while the ordinary normally applies, the extraordinary has to be proved. The staff member can thus rebut the presumption of regularity by showing through clear and convincing

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<sup>5</sup> Impugned Judgment, para. 11.

<sup>6</sup> *Savado v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2016-UNAT-642, para. 40.

evidence that he or she was denied a fair chance of selection.<sup>7</sup> This reasoning is in keeping with the Appeals Tribunal's jurisprudence, as established in *Rolland*:<sup>8</sup>

There is always a presumption that official acts have been regularly performed. This is called a presumption of regularity. But this presumption is a rebuttable one. 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 she was denied a fair chance of promotion.

43. Mr. Russo-Got asserts that i) the Secretary-General failed to provide direct evidence that he was candidate "A" for the post of Business Development Specialist and candidate "F" for the Process Design Advisor position; ii) this was a significant procedural irregularity; and iii) the Secretary-General failed to provide written tests for assessment by the Tribunal.

44. Mr. Russo-Got appears to confuse the *procedural irregularity in the selection exercise*, as referred to by the Appeals Tribunal's jurisprudence as a test for judicial review, with any error by the UNDT in the *evaluation of evidence during the proceedings*. Of course, the latter could lead to a reversal of the judgment, but this is not the case here, as will be established below. Incidentally, even when the Tribunal finds that the procedure was not properly followed, such an irregularity will only result in the rescission of a non-selection decision if the candidate would have had a significant chance of selection.<sup>9</sup>

45. Regarding the evidence, the UNDT found that, *albeit* sparse or limited,<sup>10</sup> the evidence was sufficient to minimally show that Mr. Russo-Got had received full and fair consideration, which was in accordance with the Appeals Tribunal jurisprudence set out above. Specifically, regarding the P-3 post, the UNDT established that, since Mr. Russo-Got had accepted the test scores on which the graders' comments were noted as his, there was consistency between the negative narrative comments made by the graders and candidate A.<sup>11</sup> The UNDT further

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<sup>7</sup> *Ngokeng v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-747; *Niedermayr v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2015-UNAT-603; *Rolland v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-122.

<sup>8</sup> *Rolland*, *ibid.*, para. 26. See also *Lemonnier v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-762, para. 32; *Azzouni v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-081, para. 35.

<sup>9</sup> *Bofill v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-174; *Vangelova v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-172.

<sup>10</sup> Impugned Judgment, paras. 22 and 25.

<sup>11</sup> *Ibid.*, paras. 21 and 22.

found that the written tests for both posts had been properly conducted and that the evidence was sufficient to demonstrate that Mr. Russo-Got had failed both tests. In addition, there was no evidence of ulterior motives or of lack of reasonableness in this decision.<sup>12</sup>

46. The Administration has broad discretion in matters of staff selection. As discussed, the jurisprudence of the Appeals Tribunal has clarified that, in reviewing such decisions, it is the role of the Tribunals to assess whether the applicable regulations and rules have been applied and whether they were applied in a fair, transparent, and non-discriminatory manner. The Tribunals' role is not to substitute its decision for that of the Administration.<sup>13</sup>

47. In this context, Mr. Russo-Got's argument that the Secretary-General failed to provide all written tests for a correct and full comparison between candidates is not enough to rebut the UNDT's finding, which is consistent with the evidence produced by the parties, as well as with the Appeals Tribunal's jurisprudence regarding the presumption of legality of administrative acts. The Secretary-General produced evidence about the written test and its grading. Of course, he could have produced more robust proof of his allegations, but the UNDT was still capable of reaching its conclusion with the sparse evidence provided in the case. Furthermore, on the one hand, there is no explicit provision in the legal framework that would prescribe such a strict way of proving the Secretary-General's allegations; and, on the other hand, during a recruitment exercise, it is perfectly natural and even somehow expected that different assessors give different grades to different candidates. This is the reason why the evaluation is made by a panel, rather than by a single person.

48. Mr. Russo-Got further alleged as issues, before the UNDT, the undated grading documents, which he alleges were made *ex post facto* for the purpose of the present proceedings, and the non-matching between the written assessment and the requirements of the P-3 vacancy. The UNDT did not address those allegations or claims. He also claims that i) he was the only candidate who met all mandatory requirements for the P-4 post; ii) other candidates plagiarized between 75% and 90% of the written tests, as they were very similar; iii) the Administration did not provide an evaluation matrix as part of the grading process, rendering the assessment arbitrary and based on personal experience; iv) the written test for the P-3 post was not pertinent, as it required the performance of a task which was not relevant to the position.

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<sup>12</sup> *Ibid.*, paras. 23 and 27.

<sup>13</sup> *Kinyanjui v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-932, para. 14.

49. The last issue, however, was not raised before the UNDT and thus cannot be introduced for the first time on appeal, on pain of infringement of the two-tier principle of administration of justice. As to the others, while the Secretary-General highlights the existence of an evaluation matrix, the Appeals Tribunal jurisprudence, as discussed, has established that it is not for the staff member or the UNDT to substitute their own assessment for that of the interview panel. The UNDT may examine whether the selection process was carried out in an improper, irregular or otherwise flawed manner and assess whether the resulting decision was tainted by undue considerations or was manifestly unreasonable.<sup>14</sup>

50. In applying the above principle, we find that the mere fact that Mr. Russo-Got disagrees with the evaluation method and his personal grade does not mean that the evaluation method applied by the interview panel was unreasonable and unfair. Mr. Russo-Got cannot substitute his own evaluation method for that of the Administration, particularly when his own allegations include some sort of speculative and unsubstantiated argumentation, as is the case of the alleged plagiarism.<sup>15</sup>

51. Mr. Russo-Got also claims that he has been informed by a staff member who wished to remain anonymous that his test results for both positions were good and that he should have proceeded to the next stage of the recruitment process. He also claims that some internationally recognized reviewers have given his tests much higher grades. The Appeals Tribunal cannot take this allegation into account. First, because it is not clear in which capacity this staff member was acting and if s/he is qualified to give such an assessment. Second, this staff member was obviously not among the assessment panel members. Third, there is no evidence in support of such a statement, which is not in the record. To invoke anonymity is not enough in the present case. It would be preferable to provide sufficient evidence and rely on existing protective measures for witnesses.

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<sup>14</sup> *Wang v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-454, para. 41. See also *Staedtler, v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-547, para. 27.

<sup>15</sup> *Wang, ibid.*, paras. 41-42.

52. Lastly, Mr. Russo-Got's claims about UNOPS' failure to find him an alternative position constitutes the main issue before the UNAT in another proceeding<sup>16</sup> and cannot be considered in the present case which deals only with his non-selection for the two already mentioned positions.

53. In light of the foregoing and since the UNDT is the natural reviewer of the factual aspects of the case, its interpretation of the totality of the evidence on the record is reasonable. Mr. Russo-Got has not put forward, in his appeal, any argument against the UNDT's finding. Further, as already noted in *Krioutchkov*<sup>17</sup> and *Aliko*,<sup>18</sup> the Appeals Tribunal is not an instance for a party to reargue the case without identifying the defects and demonstrating on which grounds an impugned UNDT judgment is erroneous. This is because "[i]n the absence of a compelling argument that the UNDT erred on a question of law, or on a question of fact resulting in a manifestly unreasonable decision, we will not lightly interfere with the findings of the Dispute Tribunal".<sup>19</sup>

54. The UNDT thus correctly found that Mr. Russo-Got was Candidate "A" for the P-3 test and Candidate "F" for the P-4 test, and that UNOPS had submitted contemporaneous documentation showing that he was not recommended because he had failed the written assessment for the two posts. The Appeals Tribunal has reviewed the UNDT's Judgment and find that Mr. Russo-Got's case was fully and fairly considered; we can find no error of law or fact in its decision. The UNDT properly reviewed the contested decisions in accordance with the applicable law.

55. The appeal hence fails.

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<sup>16</sup> See *Russo-Got v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1090.

<sup>17</sup> *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-711, paras. 20-22.

<sup>18</sup> *Aliko v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-540, paras. 28-30.

<sup>19</sup> *Goodwin v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-346, para. 23.

**Judgment**

56. The appeal is dismissed and Judgment No. UNDT/2020/075 is affirmed.

Original and Authoritative Version: English

Dated this 19<sup>th</sup> day of March 2021.

*(Signed)*

Judge Halfeld, Presiding  
Juiz de Fora, Brazil

*(Signed)*

Judge Colgan  
Auckland, New Zealand

*(Signed)*

Judge Sandhu  
Vancouver, Canada

Entered in the Register on this 26<sup>th</sup> day of April 2021 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar