UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1206

Torek Farhadi

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge Kanwaldeep Sandhu Judge John Raymond Murphy
Case No.:	2021-1524
Date:	18 March 2022
Registrar:	Weicheng Lin

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Angélique Trouche

JUDGE MARTHA HALFELD, PRESIDING.

1. Before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal), Mr. Torek Farhadi challenged his non-selection for the following vacancies with the International Trade Centre (ITC): The fixed-term position of Senior Advisor, Trade for Sustainable Development, P-4, Sustainable and Inclusive Value Chains (SIVC), Division of Enterprises and Institutions (DEI), advertised under vacancy number PVN/08/2017 (fixed-term position); and the temporary position of Senior Programme Officer (50 per cent), P-4, SIVC, advertised under vacancy number ITC/TVN/11/2018 (temporary position).

2. In Judgment No. UNDT/2020/216, the UNDT found the decisions lawful and dismissed the application. Mr. Farhadi has appealed against the UNDT Judgment to the United Nations Appeals Tribunal (Appeals Tribunal).

3. For the reasons set out below, we dismiss the appeal.

Facts and Procedure

4. On 4 May 2009, Mr. Farhadi joined the ITC under an 11-month short-term appointment as Programme Coordinator (L-5 level) of the Enhancing Arab Capacity for Trade programme (EnACT). Effective 1 July 2009, his appointment was converted to fixed-term as Programme Coordinator (P-5 level), EnACT. As of 1 December 2012, Mr. Farhadi was laterally transferred to the position of Senior Adviser (P-5), Trade Finance for small and medium-sized enterprises (SMEs), Division of Business and Institution Support (DBIS), ITC.

5. Effective 1 January 2015, Mr. Farhadi was transferred to a lower-level post (P-4) as Senior Programme Management Adviser, Women in Trade Programme, DBIS, ITC, following the abolition of the post that he had encumbered due to lack of funding.

6. By letter dated 28 April 2017, Mr. Farhadi was notified that his fixed-term contract, expiring on 30 June 2017, would not be renewed due to lack of funding. His appointment was extended several times for the purpose of exhausting his sick leave entitlements until 30 September 2018, date at which he separated from the Organization.

7. On 1 June 2017, Mr. Farhadi applied for the fixed-term position. He was notified of his non-selection to this position on 16 July 2018. On 19 April 2018, Mr. Farhadi applied for the temporary position. He was notified of his non-selection to this position on 13 July 2018.

8. On 5 September 2018, Mr. Farhadi requested management evaluation of his non-selection decisions which the Administration upheld on 23 October 2018.

9. On 21 January 2019, Mr. Farhadi filed his application before the UNDT contesting his non-selection decisions.

10. On 23 December 2020, the UNDT issued Judgment No. UNDT/2020/216 dismissing the application. As to the selection process for the fixed-term position, the UNDT found that, based on the record, Mr. Farhadi was not eligible for this position because he did not meet the required criteria of "[p]ractical experience in working in the area of sustainability standards".[1] This was recorded in the electronic selection system and had been communicated to Mr. Farhadi. While Mr. Farhadi disagreed with this assessment of his qualifications, the UNDT found no ground to question the hiring manager's evaluation in that respect. As for the alleged bias against Mr. Farhadi, the UNDT noted that none of the personnel suspected of bias by Mr. Farhadi had been involved in assessing Mr. Farhadi's eligibility which was the sole reason for him not to participate further in this selection process. The UNDT found that the claim of bias was unfounded. The UNDT consequently concluded that Mr. Farhadi's candidature had been fully and fairly considered and that the non-selection decision was lawful.

11. Turning to the temporary position, the UNDT reviewed the evidence and considered unsupported Mr. Farhadi's claim of bias on the part of his former second reporting officer (who was part of the assessment panel), the hiring manager for the temporary position, and the Director for the ITC Division (who endorsed the selection recommendation for this position). The UNDT also found that, contrary to Mr. Farhadi's claim, there was no evidence of the absence of a genuine competitive selection process. The UNDT noted that there was no requirement in the internal rules that a minimum number of candidates had to be called to take the written test and the interview. In addition, the assessment of the two candidates was fully documented, and Mr. Farhadi was provided detailed feedback when he requested it. The UNDT correctly noted that Mr. Farhadi got the lowest score on the written test and did not pass the interview. Finally, the UNDT rejected Mr. Farhadi's claim that the selection process was vitiated by procedural shortcomings. The UNDT found no breach of internal rules and no evidence of lack of transparency or procedural irregularities. It also rejected Mr. Farhadi's contention that the subject matter of the written test was such as to favour the selected

[1] Impugned Judgment, para. 15.

candidate noting the general nature of the written test's subject matter and the candidates' professional experience.

12. On 22 February 2021, Mr. Farhadi filed an appeal of the Judgment and on 3 May 2021, the Secretary-General filed his answer.

Submissions

Mr. Farhadi's Appeal

13. The UNDT erred in finding that the Administration had complied with ITC/AI/2015/07 and that there was "no evidence of lack of transparency of or procedural irregularities in the selection process". The ITC failed to subject the successful candidate for the temporary position to the vetting and reference-check requirements applicable to external candidates, as set out in Sections 3.7 and 5.8 of ITC/AI/2015/07. Moreover, prior to his selection for a staff position, the successful candidate was engaged as a consultant under the supervision of Mr. Farhadi's SRO, who was therefore under the relevant rules the successful candidate's "last employer" and his potential referee in addition to being a member of the assessment panel for the temporary post. This situation gave rise to a situation of conflict of interest. Hence, Mr. Farhadi's SRO's participation in the selection process for the temporary post was improper.

14. The UNDT's errors were, at least in part, induced by successful attempts to tamper with evidence. At the time of writing the appeal, Mr. Farhadi discovered that the Secretary-General's reply before the UNDT contained two different versions of the same selection recommendation. A careful review of Annexes 11 and 12 to the reply reveals clear attempts to interfere with the evidence presented before the UNDT. There is reasonable basis to believe that those attempts were designed to conceal the perceived procedural breaches vitiating the recruitment process for the temporary post. Had the UNDT carefully considered the entirety of the evidence filed in this case, it would have concluded that Mr. Farhadi's arguments pertaining to procedural irregularities were supported by clear evidence. Moreover, it would have taken into account those attempts to tamper with evidence in its assessment of the argument pertaining to bias and lack of objectivity in the recruitment process. In any event, the integrity of the UNDT proceedings was compromised as a result of the editing of the materials tendered into evidence by the Secretary-General.

15. These attempts to interfere with the administration of justice constitute misconduct. Mr. Farhadi requests that the matter be remanded to the Administration for an independent, and preferably external, investigation into attempts to interfere with the administration justice. In this regard, Mr. Farhadi notes that there is evidence on record indicating that the materials pertaining to the temporary post filed by the Secretary-General before the UNDT had been prepared for submission by the Hiring Manager, the very same person who sat on the assessment panel for both the temporary and fixed-term posts and whose impartiality is being called into question on appeal. An investigation is therefore material to the outcome of the case

16. The UNDT erred in fact and law in assessing the existence of impartiality and bias. The UNDT erred in requiring Mr. Farhadi to establish actual bias on the part of panel members and in failing to examine whether the facts, were sufficient to create an apprehension of bias or partiality in the mind of a reasonable observer. The Hiring Manager participated in the two contested selection processes and there is sufficient basis to question her impartiality. Likewise, Mr. Farhadi's former SRO would have been required to act as a panel member and a referee for the successful candidate in the recruitment process for the temporary post, which resulted in a clear situation of conflict of interest. Furthermore, there were additional indicia revealed by the non-renewal case demonstrating that Mr. Farhadi's former SRO lacked objectivity and should not have been involved in assessing Mr. Farhadi's candidacy for the above-mentioned posts.

17. In February 2017, Mr. Farhadi's former SRO led a management review mission to Papua New Guinea and was accompanied by a former ITC consultant (and subsequently the successful candidate for the temporary post). Upon return from the mission, Mr. Farhadi's former SRO removed Mr. Farhadi from the WEEP project, with immediate effect and without any prior notice. Mr. Farhadi was also removed from the Afghanistan ERI project, which formed the remaining substantial part of his functions. The combined effect of the removal of functions was a complete eviction of Mr. Farhadi from his post. Mr. Farhadi's SRO did not provide any justification for such an extreme and drastic measure, and the Secretary-General sought before the UNDT to justify it by referring to unspecified "operational reasons related to project management issues". Mr. Farhadi's former SRO thus played an essential role in denying Mr. Farhadi the right to work while he was still at ITC. He could not reasonably be viewed as an impartial panel member.

18. Furthermore, on 29 November 2017, Mr. Farhadi filed a UNDT application challenging the non-renewal of his appointment. In his application, he made a specific argument on the misappropriation of WEEP project funds. Mr. Farhadi specifically indicated that there were

grounds for referral for accountability as the earmarked contributions by the Australian Government were at least in part being used by ITC for other purposes. The arguments were directed at Mr. Farhadi's SRO and the Hiring Manager. They both thus had a clear interest in preventing any contact between Mr. Farhadi and the donors, and they effectively instructed him not to contact the donors. Both had an interest in compromising his career prospects at ITC, not least to avoid accountability with respect to their management of the WEEP project.

19. The UNDT failed to consider clear evidence of institutional bias and erred in rejecting Mr. Farhadi's joinder request when the context and the circumstances surrounding the non-renewal of Mr. Farhadi's fixed-term appointment were directly relevant to the present non-selection case. The internal official documents filed by the Secretary-General in the non-renewal case reveal the existence of ulterior motives and a general institutional bias and expose the real reasons for not selecting Mr. Farhadi for any positions within ITC and for not renewing his appointment. A crucial document in this regard is the Management Review Mission Report for the WEEP project, prepared by the former SRO and the successful candidate on 13 April 2017. The report, submitted to ITC management two weeks prior to the non-renewal of Mr. Farhadi's appointment, heavily criticized his performance and alludes to him being a "reputational risk" for the Organization. This duplicity between the real motives and the reasons presented for the non-selection decisions reflect an institutional bias.

20. Mr. Farhadi asks that prior to any ruling on the merits of the appeal, UNAT refer the case pursuant to Article 10(8) of the UNDT Statute to the Administration for an impartial and independent investigation into attempts to interfere with the evidence submitted by the Secretary-General before the UNDT; or alternatively, remand the case to the UNDT for it to refer the matter for investigation in accordance with the procedures set out in Articles 10(4) and 10(8) of the UNDT Statute. Mr. Farhadi requests that UNAT vacate Judgment No. UNDT/2020/216 to rescind the non-selection decisions for the temporary position and fixed-term positions.

The Secretary-General's Answer

21. The UNDT was correct in finding that the non-selection decisions were lawful and within the Administration's discretion.

22. Mr. Farhadi does not establish any error by the UNDT warranting a reversal of the Judgment. At the outset, Mr. Farhadi does not appear to challenge the findings of the UNDT in respect of the fixed-term position's selection process. His contentions appear, rather, to solely focus on the selection process for the temporary position.

23. Mr. Farhadi's argument on the absence of vetting of a successful candidate is non-receivable and unsupported. Even if his contention that the Administration did not check the references of the successful candidate was relevant to his rights under his letter of appointment, which it is not, this claim was not presented to the UNDT and thus is not receivable at the appeal stage. Notwithstanding the above, Mr. Farhadi's contentions are also without merit. Reference checks take place after the selection process. The selection process consisted of a documented written test and interview that Mr. Farhadi did not pass successfully. Because he was unsuccessful, he was not offered the temporary position. The reference check was irrelevant at the stage during which the decision to not select Mr. Farhadi for the temporary position was taken. Further, the other candidate's qualifications are not relevant to the findings in relation to Mr. Farhadi's suitability. Mr. Farhadi's argument on the alleged absence of a reference check for the temporary position must therefore be dismissed. This argument is not receivable and it is also not relevant to the process that led to his non-selection.

24. By the same token, Mr. Farhadi's argument on the tampering of evidence (Annexes 11 and 12 to the reply) is non-receivable and unsupported. This claim was not presented before the UNDT and is therefore not receivable on appeal. In any event, a review of Annexes 11 and 12 to the reply reveals that this claim is also absurd. Both annexes were freely submitted by the Secretary-General with the reply — hence the accusation that the Secretary-General attempted to conceal anything does not hold. In the original PDF versions of the Annexes (as submitted to the UNDT), the selection e-mail of the Hiring Manager presents a grey box. In Annex 12 to the reply, "reference check" is clearly stated in white letters in this grey area. Annex 11 to the reply contains the same e-mail printed with colours of a lighter tone. Hence, the grey is lighter and the white letters of the text "reference check" are almost unreadable. There is no tampering with evidence as Annex 12 to the reply presents the content of this grey box in a readable manner. Given that the claim for tampering of evidence is clearly unsubstantiated, the investigation requested by the Appellant is unwarranted.

25. The UNDT was correct to find no evidence supporting Mr. Farhadi's claim of bias. Contrary to Mr. Farhadi's contention, the UNDT did not refer to the necessity to prove actual bias. In fact, the UNDT did not dismiss the application for lack of actual proof of bias when apprehension of bias was apparent. It rather found that Mr. Farhadi's claims of bias entirely lacked substance. Mr. Farhadi's allegation of bias of his former second reporting officer, in particular the contention that he should not have been a panel member for the temporary position because he was also called to act as a reference for the successful candidate, is a new claim which is not receivable. It is also without merit. There is no rule preventing a potential referee from sitting on a selection panel. Mr. Farhadi's claim that the second reporting officer played an essential role in evicting Mr. Farhadi from his post at the ITC, in particular through a management review mission report where he criticized Mr. Farhadi's work, is also without merit. The UNDT reviewed the evidence and correctly found no grounds to support the allegation. On appeal, Mr. Farhadi does not point out any error of fact on the side of the UNDT in this respect. Finally, Mr. Farhadi has failed to elaborate on his contention that there is a basis to question the Hiring Manager's impartiality, a contention which the UNDT found unsubstantiated.

26. Furthermore, Mr. Farhadi's contention that his former SRO and the hiring manager colluded to evict him from the Organization in order to avoid any accountability concerning their alleged mismanagement of a project's funding is again a new claim which was not presented to the UNDT and as such it is not receivable. It is also unsupported by any evidence. If Mr. Farhadi has evidence of fraud, he should report it using the Organization's relevant reporting mechanisms. Mr. Farhadi does not allege that he ever reported any fraud, and neither does he submit any evidence of having done so.

27. Finally, Mr. Farhadi has failed to support his claim that there was institutional bias against him and that the UNDT should have joined the present case with the challenge of the non-renewal of his contract. The UNDT did not find it necessary to join the two cases and Mr. Farhadi has not demonstrated how the UNDT erred in exercising its discretion in managing the case. The two cases concern different legal questions: non-selection for two positions in the instant case and non-renewal of appointment in UNDT Judgment No. 2020/217. Mr. Farhadi has failed to bring any evidence of ulterior motives on the side of the Organization concerning his non-selection and the UNDT correctly found no evidence of bias against him involved in his non-selection.

28. The Secretary-General asks that UNAT uphold the Judgment and dismiss the appeal.

Considerations

29. The issue for consideration and determination here is whether the UNDT erred when it found that Mr. Farhadi's candidatures for both the fixed-term post and the temporary post were given full and fair consideration even though he was not selected for either of the posts.

30. Before embarking on the assessment of the facts, it is important to recall the Appeals Tribunal's jurisprudence, according to which the Dispute Tribunal may only rescind a selection or promotion process in "extremely rare circumstances". When a candidate has received fair consideration, without discrimination or bias, with proper procedures, and when all relevant material has been taken into account, the Dispute Tribunal shall uphold the selection exercise.[2]

31. In reviewing administrative decisions regarding appointments and promotions, the Appeals Tribunal has established the factors to be considered 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) 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.[3]

32. If the Administration is able to 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.[4]

33. In his appeal, Mr. Farhadi does not challenge the UNDT's findings regarding the fixed-term post, for which the selection procedure had been established by ITC/EDB/2014/06 (ITC Staff selection system), particularly Section 7. The Appeals Tribunal will therefore limit its analysis to the grounds of appeal raised by Mr. Farhadi, namely the selection exercise for the temporary position.

[2] *Rolland v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-122, para. 20.
[3] *Savadogo v. Registrar of the International Tribunal for the Law of the Sea*, Judgment No. 2016-UNAT-642, para. 40.
[4] See *Rolland*, *op. cit.*, para. 5.

34. Administrative Instruction ITC/AI/2015/07 (Administration of Temporary Appointments) governs the selection process for temporary posts within the ITC. Section 5.8 establishes that consultants and individual contractors, as well as interns, fellow, gratis personnel, Junior Professional Officers and United Nations Volunteers are eligible to apply and be considered as external candidates for any ITC job openings, at any time, subject to their meeting the relevant eligibility requirements of the post and the competitive selection process, and to the restrictions set out in Section 14 (regarding exceptional extension of a temporary appointment beyond the period of 364 days).

35. Sections 3.6 and 3.7, under the heading of Evaluation, Selection and Appointment or Assignment, provide that:

> *Evaluation, selection and appointment or assignment*
>
> 3.6. The hiring manager will assess the candidate's applications in order to determine whether they are eligible, and whether they meet the minimum requirements, as well as the technical requirements and competencies of the temporary position. Such assessment will be undertaken through a comparative analysis of the applications. The assessment may also include a competency-based interview and/or other appropriate evaluation mechanisms, such as written tests, work sample tests and assessment centres. Following a competitive process, the Executive Director on recommendation from the Division Director shall make the selection decision. The Executive Director has delegated the authority to make the selection decision to the Head of Recruitment.
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> 3.7. When a candidate has been selected, he/she shall be offered the respective appointment, which for *external candidates will be subject to satisfactory reference checks to be completed by the hiring manager* and retained in their records. HR may verify that checks have been completed. Such reference checks shall include, at a minimum, verification of the highest *required academic qualification(s) and record with the last employer*. Once such reference checks are completed to the satisfaction of the hiring manager, a letter of appointment will be provided upon entry on duty. The letter of appointment shall contain, expressly or by reference, the terms and conditions of employment and details of the candidate's entitlements. In exceptional cases, a conditional letter of appointment, for a period not exceeding three months, may be offered, *subject to completion of reference checks* the results of which are verified and deemed satisfactory by the hiring manager.

36. As stated above, the hiring manager has a fundamental role in pre-screening and assessing the candidates during the selection exercise, and in checking references after the candidate has been selected. Mr. Farhadi maintains that the successful candidate, who was engaged as a

consultant and thus should have been treated as an external candidate, was not subject to the mandatory vetting procedure, as required by Sections 3.7 and 5.8 of ITC/AI/2015/07.

37. The Appeals Tribunal notes that Mr. Farhadi's conclusion is not thoroughly considered. The mere indication by the Hiring Manager of the fact that "[b]oth candidates have worked with women and trade previously" under the rubric "Reference check" is not sufficient to conclude that there were no actual reference checks. More importantly, as discussed above, the reference checks normally take place only once the selection has been concluded, and in the present case, Mr. Farhadi was not selected. This would be enough to dismiss his argument, not to mention that this claim was only raised for the first time on appeal, which is not admissible under the Appeals Tribunal's jurisprudence.[5]

38. Also raised for the first time at the appeals level is the claim of evidence having been tampered with by the Secretary-General. In this regard, even if the Appeals Tribunal were to examine this new argument, it would be satisfied with the explanation provided by the Secretary-General in his answer to the appeal, namely that it was simply a matter of how both documents had been printed, in lighter or darker colour, so as to permit the reader to be able to discern the text of "Reference check" in a coloured box. The fact that both allegedly different documents had been filed on a voluntary basis by the Secretary-General confirms the finding that they were not different in essence. Moreover, as discussed, the reference check would have only been relevant once the selection had been completed and, therefore, the alleged disparity was of no consequence in this case. There was therefore no attempt by the Secretary-General to tamper with evidence, nor was there interference with the integrity of the proceedings before the UNDT, and hence, there is no reason for an investigation to be ordered by the Appeals Tribunal.

39. Mr. Farhadi further claims that, as a consultant, the successful candidate was under the supervision of the Chief of SIVC who, as a "last employer", had a clear conflict of interest as a member of the assessment panel, since he could act as a potential reference of the selected candidate. This argument has no merit since the mere possibility of being invited to act as a future and potential reference does not bar a qualified person from being a member of a panel to select candidates. Mr. Farhadi's argument in this sense is merely speculative.

[5] *Abu Salah v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2019-UNAT-974, para. 24.

40. Following the sequence of the aforementioned alleged procedural irregularities which in reality did not exist, Mr. Farhadi also attacks the substance of the selection exercise, particularly since he contends that the UNDT erred in fact and law in assessing the existence of impartiality and bias of the Hiring Manager, and of Mr. Farhadi's then SRO, the Chief of SIVC. Mr. Farhadi maintains that, following a pre-screening phase, he was further assessed in the form of a written test and an oral interview. However, the Hiring Manager subsequently indicated that Mr. Farhadi had not been successful in either test. The UNDT found that the Secretary-General complied with ITC/AI/2015/07 and that the non-selection decision was lawful and within the Administration's discretion and that there was no bias on the part of the panel members.

41. As examined above, the possibility of the Chief of SIVC being requested to be a referee for the successful candidate does not in itself constitute any basis for the alleged bias against Mr. Farhadi.

42. Furthermore, relying on the Management Review Mission Report, Mr. Farhadi also insists on the arguments that the non-renewal of his contract was unlawful, that he was unfairly removed from his functions, that this context influenced the decision not to select him for the temporary post, that two members of the panel had an interest in promoting the successful candidate for the temporary post, that the cases should have been decided jointly, and that there are grounds for referral for accountability.

43. In this instance, the Appeals Tribunal reaffirms its jurisprudence according to which the UNDT enjoys wide discretion in case management matters. As was decided in *Domitilla Bianca Icha*:[6]

> Pursuant to Article 19 of the UNDT Rules of procedure, the UNDT 'may at any time, either on application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties'. This Tribunal has consistently held that:
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> > Under the new system of administration of justice, the UNDT has broad discretion with respect to case management. (…) As the court of first instance, the UNDT is in the best position to decide what is appropriate for the fair and expeditious disposal

[6] *Domitilla Bianca Icha v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1077, para. 42 (internal footnote omitted), citing *Bertucci v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-062, paras. 22-23; see also *Monarawila v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-694, para. 28.

> of a case and do justice to the parties. The Appeals Tribunal will not interfere lightly with the broad discretion of the UNDT in the management of cases.

44. The two cases filed in 2017 and 2019, respectively, indeed concern two different legal matters: the non-renewal of a fixed-term appointment and the non-selection for two other positions. Contrary to what Mr. Farhadi contends, the UNDT did not err in rejecting Mr. Farhadi's request to have both cases decided jointly.

45. While any allegation of bias or ulterior motive of the contested administrative decisions should have been proven, this was not the case here. The UNDT did not err when it found that Mr. Farhadi did not present any evidence of ulterior motive in the selection exercise for the temporary post.[7]

46. Therefore, the fact that one member of the panel had participated in the report did not impede his/her participation in the panel during the selection exercise. The facts indeed indicate that the selection process proceeded according to the applicable guidelines and policies. The selection panel was properly constituted and there is no evidence of bias or ulterior motive. Having failed to persuade the Appeals Tribunal of any error in the UNDT Judgment, the appeal must be dismissed.

[7] Impugned Judgment, paras. 23 and 25. In Judgment No. 2022-UNAT-1203, the Appeals Tribunal held that the UNDT was correct in finding that the Administration provided enough evidence to support the finding that the non-renewal of Mr. Farhardi's appointment was based on budgetary grounds. Specifically with regard to the Management Review Mission Report, the Appeals Tribunal held that, despite the criticism of Mr. Farhadi's performance in the report, the underlying fact was still the limited available funding for the project.

Judgment

47. The appeal is dismissed and Judgment No. UNDT/2020/216 is affirmed.

Original and Authoritative Version: English

Dated this 18th day of March 2022.

(Signed)	*(Signed)*	*(Signed)*
Judge Halfeld, Presiding Juiz de Fora, Brazil	Judge Sandhu Vancouver, Canada	Judge Murphy Cape Town, South Africa

Entered in the Register on this 28th day of April 2022 in New York, United States.

(Signed)

Weicheng Lin, Registrar