



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

Judgment No. 2023-UNAT-1345

**Antonio Ponce-Gonzalez
(Appellant)**

v.

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

JUDGMENT

Before:	Judge Martha Halfeld, Presiding Judge Graeme Colgan Judge Dimitrios Raikos
Case No.:	2022-1694
Date of Decision:	24 March 2023
Date of Publication:	11 May 2023
Registrar:	Juliet Johnson

Counsel for Mr. Ponce-Gonzalez:	George G. Irving
Counsel for Secretary-General:	Amanda Stoltz

JUDGE MARTHA HALFELD, PRESIDING.

1. The United Nations Appeals Tribunal (UNAT or Appeals Tribunal) is seized of an appeal by Mr. Antonio Ponce-Gonzalez against Judgment No. UNDT/2022/029, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in the case of *Ponce-Gonzalez v. Secretary-General of the United Nations*, by which the UNDT dismissed his application challenging the failure to afford full and fair consideration to his candidacy for a P-5 post of Chief, Operations and Resource Manager (CORM) in the United Nations Security Force for Abyei (UNISFA), resulting in his non-selection.
2. For the following reasons, UNAT dismisses the appeal and affirms the impugned UNDT Judgment.

Facts and Procedure

3. Mr. Ponce-Gonzalez is a Chief, Budget and Finance Officer, serving on a fixed-term appointment at the P-4 level with UNISFA.
4. On 31 August 2020, the Administration issued a job opening for the position of CORM, at the P-5 level, with UNISFA. The position was advertised in Inspira as a Recruit-from-Roster (RFR) job opening, exclusively open to roster candidates.
5. Mr. Ponce-Gonzalez applied for the position on 14 September 2020.
6. On 14 December 2020, Mr. Ponce-Gonzalez became aware that a selection decision had been made and that he had not been selected for the position.
7. On 5 January 2021, Mr. Ponce-Gonzalez requested management evaluation of the contested decision. On 17 February 2021, the Administration upheld the contested decision.
8. On 18 May 2021, Mr. Ponce-Gonzalez filed an application with the UNDT contesting the alleged failure of the Administration to afford full and fair consideration to his candidacy for the position. On 18 June 2021 the Secretary-General filed a reply.
9. On 11 January 2022, the UNDT determined that the case could be adjudicated on the papers before it. On 8 February 2022, Mr. Ponce-Gonzalez filed a rejoinder, and on 22 February 2022, the Secretary-General filed comments on the rejoinder.

10. On 25 March 2022, the UNDT issued Judgment No. UNDT/2022/029, dismissing the application, finding that the decision not to select Mr. Ponce-Gonzalez for the position had been lawfully taken. The UNDT found that it was within the Administration's discretion to select the successful candidate for the position and that Mr. Ponce-Gonzalez had not demonstrated that he had a significant chance of selection, absent any of the irregularities that he had alleged. The UNDT further held that Mr. Gonzalez's claims concerning the import of various findings made by the UNDT and the UNAT in separate non-selection challenges brought by Mr. Ponce-Gonzalez were not dispositive to this case, that there was no merit in his assertion that the Administration had manipulated the evidence regarding the hiring manager's delegated authority, and that there was no evidence that the vacancy announcement for the job opening had been tailored to exclude his candidacy.

11. On 23 May 2022, Mr. Ponce-Gonzalez filed an appeal of the Judgment, and the Secretary-General filed an answer on 25 July 2022.

Submissions

Mr. Ponce-Gonzalez's Appeal

12. Mr. Ponce-Gonzalez submits that the UNDT erred in its consideration of the relevance of other selection decisions where he had been unfairly disqualified and which he appealed. The UNDT erred in fact when it dismissed the evidence that supported a reasonable apprehension of partiality. In that regard, he relies on an extract from a UNDT Order rendered in a different case and refers to the hypothetical possibility of future challenges resulting from the involvement of the same hiring manager in two different selection exercises.

13. Mr. Ponce-Gonzalez further submits that the UNDT erred when it rejected his assertions that the Administration manipulated the evidence regarding the hiring manager's delegation of authority. The UNDT "erred in fact when it misunderstood the evidence" regarding the authenticity of the 12 December 2019 delegation letter. Mr. Ponce-Gonzalez submits that the Secretary-General merely repeated the meritless allegations presented before the UNDT regarding the purported authenticity of the 12 December 2019 delegation of authority letter from the Head of Mission to the hiring manager. The hiring manager sub-delegated the Head of Mission's delegated authorities to himself. The absence of an "official stamp" or the letters "HOM" (Head of Mission) in the document's reference number, and the fact that another staff member physically

entered the delegation in the portal on behalf of the Head of Mission, or the fact that a new Head of Mission subsequently issued a new delegation of authority, all bring into question the authenticity of the delegation of authority relevant to this case. Moreover, heads of entities cannot be hiring managers.

14. The UNDT erred in its review of the Administration's consideration of Mr. Ponce-Gonzalez's candidacy. The decision to select the successful candidate was made on the basis that "critical material in his profile was entirely ignored (including 13 years of relevant experience at the [United Nations])" and that the Administration misrepresented the date on which he had joined the United Nations. Mr. Ponce-Gonzalez also takes issue with the "limited and selective" description of his experience contained in a spreadsheet prepared by the hiring manager.

15. Mr. Ponce-Gonzalez maintains that he was assessed against unpublished selection criteria and that this impropriety placed him at an unfair disadvantage and violated Administrative Instruction ST/AI/2010/3 (Staff selection system). Because the exact same words were not used in the hiring manager's evaluation as in the vacancy announcement, a different criterion was applied.

16. He submits that he had the experience that the hiring manager found he lacked. Mr. Ponce-Gonzalez maintained that he did in fact possess the experience for which the hiring manager found him lacking and that the UNDT "erred in fact when it did not conduct a judicial review" of the contents of his Personal History Profile (PHP). In support of this argument, Mr. Ponce-Gonzalez proffered his own definition of "operational management experience," referred to his "extensive experience" in this regard and alleged that the hiring manager had ignored relevant experience contained in his PHP. He asserts that his experience was "superior" to that of the selected candidate and that he was entitled to be selected for the position simply by virtue of his "seniority".

17. Mr. Ponce-Gonzalez also asserts that he was denied "equal treatment" because he was "unduly excluded" from consideration in a comparative analysis report (CAR), and that the selection process was therefore improper. The preparation of a CAR was necessary for the "full and fair" assessment of his candidacy.

18. Mr. Ponce-Gonzalez submits that he had a foreseeable and significant chance of selection based on (a) a finding in another UNDT judgment that is currently under appeal, (b) his assessment of his own years of experience and superiority to the selected candidate, and (c) his understanding that he was entitled to be assessed against the selected candidate in a CAR.

19. Mr. Ponce-Gonzalez requests rescission of the contested decision and compensation for material and moral injury in the amount of two years' net base pay; promotion to P-5 or alternatively the difference in pay between P-4 and P-5 until retirement, including the difference in pension contributions. He also requests a referral for accountability for the responsible officials.

The Secretary-General's Answer

20. The UNDT correctly found that the contested decision had been lawfully taken. In reaching this conclusion, the UNDT correctly refrained from making its own promotion decision and properly considered whether the Administration's discretionary authority in matters of appointment and promotion had been lawfully exercised. The UNDT correctly identified the factual and legal issues before it, took the parties' submissions into account and issued a reasoned Judgment.

21. In any event, in the present case, the record shows that of the roster candidates that applied for the position, 15 candidates had been pre-screened and had been determined to meet the minimum requirements of the position. These 15 candidates, including Mr. Ponce-Gonzalez, were released to the hiring manager who evaluated them. The selected candidate and two other candidates met both the required and desirable criteria in the job opening and were therefore shortlisted. The selected candidate was subsequently found to be the most suitable candidate for the position. The UNDT reviewed the evidence before it and correctly found that the evidence supported the hiring manager's evaluation of the selected candidate's candidacy and that it was within the Administration's discretion to select the successful candidate. Mr. Ponce-Gonzalez was given full and fair consideration for the position but was found not to have the "operational management experience" that the hiring manager considered to be necessary to meet the published desirable criteria and was therefore not shortlisted. The evaluation of candidates' experience and the determination whether they met the evaluation criteria for a job opening is a substantive function reserved to the Administration's discretion.

22. The Secretary-General submits that Mr. Ponce-Gonzalez failed to establish that the UNDT erred in its consideration of the relevance of other selection decisions appealed by him. Contrary to Mr. Ponce-Gonzalez's claims, there was no evidence that supported a reasonable apprehension of partiality and the UNDT did not err when it decided to adjudicate the case before it based on the evidence submitted by the parties in the proceedings. Mr. Ponce-Gonzalez's reliance on his allegedly "unfair" disqualification in a prior selection exercise is also misleading and factually inaccurate as the lawfulness of that selection exercise is still pending determination by the UNAT. Likewise, his reliance on an extract from a UNDT Order rendered in a different case referring to the hypothetical possibility of future challenges resulting from the involvement of the same hiring manager in two different selection exercises does not support any reasonable apprehension of partiality. In this regard, the UNAT has already held that the participation of a hiring manager who had previously excluded a candidate from another selection exercise does not in itself give rise to any substantive allegation of bias or discrimination.

23. The Secretary-General contends that Mr. Ponce-Gonzalez has further failed to establish that the UNDT erred when it rejected his assertions that the Administration manipulated the evidence regarding the hiring manager's delegation of authority. In the present case, the Secretary-General provided the UNDT with evidence of the hiring manager's delegated authority to make selection decisions, including a copy of the 12 December 2019 delegation of authority letter addressed from the Head of Mission to the hiring manager, as well as a copy of the delegation details contained in the delegation portal. The UNDT correctly considered the evidence before it and concluded that the 12 December 2019 delegation letter bore "all indicia of authenticity".

24. The Secretary-General further submits that Mr. Ponce-Gonzalez failed to establish that the UNDT erred in its review of the Administration's consideration of his candidacy. First, only the published required and desirable criteria were applied to the evaluation of the candidates. Second, the Administration is best placed to make an assessment of candidates against the applicable evaluation criteria and the Administration legitimately found that he did not satisfy the desirable criteria published. There was no evidence of any bias, discriminatory practice or mala fides and as such, there was no basis for the UNDT to interfere in the hiring manager's substantive assessment of Mr. Ponce-Gonzalez's experience. Third, Mr. Ponce-Gonzalez's candidacy was reviewed on the same basis as all the other candidates and was given full and fair consideration, but he was found not to be suitable for the position. Even if he had met both the required and desirable criteria and if he had been, in fact, "more senior" and had had more "diversified

experience” than the selected candidate, he would not have been entitled to be recommended or selected for the position. In making a final selection, the Administration has the discretion to take into account a variety of considerations, provided the exercise of this discretion is not abusive, arbitrary, discriminatory, or irregular. Fourth, the fact that Mr. Ponce-Gonzalez was “excluded” from consideration in a CAR was a direct result of the fact that he was not shortlisted for the position. It is axiomatic that a candidate who is not shortlisted is not entitled to continue to be further assessed alongside shortlisted candidates. Fifth, the UNDT did consider his chance of selection and determined, based on the evidence before it and in accordance with the applicable legal framework, that he did not have a significant chance of promotion.

25. The Secretary-General requests that UNAT dismiss the appeal.

Considerations

26. As found by a decision made in a separate case¹, at least four selection exercises have been opened for the same position at UNISFA (TJO 104314, RFR 104637, TJO 109862 and RFR 140266), a fact which ordinarily does not seem to contribute to a fluid, transparent and efficient work environment. Advertisements for open positions should preferably be published in a manner avoiding failures and mistakes, even though sometimes it is inevitable to republish a vacancy announcement due to a lack of success of a recruitment process or any circumstance alike.

27. Having said the above, the present case deals with the recruitment exercise advertised on 31 August 2020 as RFR 140266 for the P-5 post of CORM in UNISFA. In his application before the UNDT, Mr. Ponce-Gonzales challenged the 14 December 2020 decision not to select him for the position, claiming that he had been denied full and fair consideration.

28. The main issue for consideration and determination is therefore whether the UNDT erred in upholding the non-selection decision. In its determination, the UNDT firstly found that there was no link between the selection decision in the present case and previous selection decisions which were the subject of previous judgments. In so finding, the UNDT concluded that these previous selection decisions appealed against by Mr. Ponce-Gonzalez had no relevance for the present case. While Mr. Ponce-Gonzalez contends that he was not contesting this finding as being legally binding in the review of this case, he repeats his argument of apprehension of

¹ See *Antonio Ponce-Gonzalez v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1344.

partiality of the hiring manager who conducted the selection exercises, claiming that there was an improper motive to unfairly eliminate him.

29. The Appeals Tribunal cannot agree with such an argument. The mere fact that the hiring manager was involved in two selection exercises in which Mr. Ponce-Gonzalez was not successful does not indicate any partiality, but rather a regular exercise of the Administration's routine of selecting candidates for advertised positions. There is nothing on the record that supports the assumption of possible bias or apprehension of partiality on the part of the hiring manager. This ground of appeal should be hence dismissed.

30. Further, Mr. Ponce-Gonzalez maintains that the UNDT erred when it rejected his assertions that the Administration mismanaged the evidence regarding the hiring manager's delegation of authority. In this regard, he claims that both the reference number and the official stamp of the Head of Mission are lacking in the 12 December 2019 delegation letter, concluding that the letter was inauthentic. Further, he submits that there was no proper sub-delegation of authority from the Head of Entity to the Chief of Mission Support, as required by the applicable legal framework.

31. When it comes to the right of appeal, the Appeals Tribunal first recalls its well-established jurisprudence that the appellant has the duty to demonstrate that the UNDT judgment is defective. When the Appeals Tribunal hears an appeal, it does not simply re-try the case. The function of the Appeals Tribunal is to determine if the Dispute Tribunal has made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction, as prescribed in Article 2(1) of the Statute. The appellant has the burden of satisfying the Appeals Tribunal that the judgment rendered by the Dispute Tribunal is defective. It follows that the appellant must identify the alleged defects in the judgment and state the grounds relied upon in asserting that the judgment is defective. It is not sufficient for an appellant to state that he or she disagrees with the outcome of the case or repeat the arguments submitted before the Dispute Tribunal.²

² *Edward E. Hammond v. Secretary-General of the United Nations*, Judgment No. 2021-UNAT-1142, paras. 41 and 42. See also *Amineddine v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-962, para. 3 (internal footnote omitted): "The Appellant has the burden of asserting and proving that the Dispute Tribunal committed these defects in its Judgment and the function of the Appeals Tribunal on an appeal is not to re-try the case or make its own findings of fact." Also *Chrichlow v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-035.

32. Moreover, according to the applicable legal framework, the restrictions on possible sub-delegations of authority should be explicitly included in the delegation of authority. This reasoning is in keeping with the general principle that the main purpose of the delegation of authority is to facilitate the decision-making process, rendering it simple and smooth, in a nutshell less bureaucratic. In this regard, Sections 2.3, 2.5, 4.1 and 4.2 of Secretary-General's ST/SGB/2019/2 (Delegation of authority in the administration of the Staff Regulations and Rules and the Financial Regulations and Rules), provide that:³

2.3 A core principle of delegation of authority is the delegation of centrally held decision-making closer to the point of service delivery. *The exercise of a delegated authority is the taking of a decision within the authority delegated and is separate from the execution of that decision, which may require a specific administrative capacity.* Delegation of authority should not lead to the creation of new duplicative administrative capacities in entities which lack the structural capacity to execute decisions. Consequently, where the head of entity has the capacity to take a decision under delegated authority but the entity lacks the appropriate capacity to execute the decision, another entity will be assigned by the Under-Secretary-General for Operational Support, in consultation with the Under-Secretary-General for Management Strategy, Policy and Compliance and the head of entity concerned, to execute the decision on the entity's behalf as a service provider.

...

2.5 All delegations of authority shall be made formally through the dedicated online portal. The authorities delegated shall be clearly stated and accepted by both the delegator and the delegatee, including that such delegation may be suspended, amended or revoked as provided in section 4.4 below. *The delegation should include the description of the authority being delegated and any specific limitations imposed, including but not limited to restrictions on further subdelegation and essential segregations of duties where applicable.* Delegatees shall inform themselves of the delegation and the relevant regulations, rules, policies, practices and standards applicable to any decision or action to be taken under the authority delegated and cannot claim ignorance of such in defence of any decision or action taken in the exercise of any delegated authority. The Department of Management Strategy, Policy and Compliance and the Department of Operational Support shall be available to support delegatees in this regard.

...

³ Emphases added. Internal footnote omitted.

Section 4 Management of authorities delegated to heads of entity

4.1 Heads of entity will receive notification of their delegations of authority from the Secretary-General and any actions relating to such delegations, such as amendment, suspension or revocation, through the online portal. The heads of entity will acknowledge receipt of the delegations to them in their capacity as head of entity through the portal.

4.2 Through the online portal, the heads of entity will be provided with a description of the authority being delegated and any specific limitations imposed, including but not limited to restrictions on further subdelegation and essential segregations of duties where applicable. Heads of entity will use the online portal to subdelegate authority and shall be able to view all subdelegations within their entity.

33. In so far as Mr. Ponce-Gonzalez's contentions relate to the formality of the sub-delegation procedure, the evidence on the record reveals that it was properly followed. The 12 December 2019 letter clearly subdelegated the authority vested in the Head of Mission by the Secretary-General in matters of "b. Human resources" to the Chief of Mission Support. It also undoubtedly indicates the stamp of "received" by the Office of the Chief of Mission Support on 15 December 2019 and a handwritten instruction dated 16 December 2019 (acknowledged by Mr. Ponce-Gonzalez as coming from the Chief of Mission Support) to "[p]lease issue the subdelegation in writing in the portal" which is an unequivocal sign of "acceptance" of the sub-delegation. In addition, the sub-delegation records in the portal corroborate such sub-delegation under the document title "Human Resources Sub-delegation" from the Head of Mission to the Chief of Mission Support, valid from 12 December 2019 to 03 May 2021. Subsequent delegations of authority are irrelevant for the purposes of the present case. There was, therefore, no error in the UNDT Judgment when it found no irregularity in the delegation of authority.⁴

34. Mr. Ponce-Gonzalez further contends that the UNDT erred when it found that the evidence supported the evaluation of the selected candidate's candidacy when compared with his own candidacy and that it fell within the Administration's discretion to select the successful candidate, absent any procedural irregularity or even better chances of selection.⁵ Specifically, Mr. Ponce-Gonzalez alleges that his candidacy was not afforded full and fair consideration by virtue of the fact that he possessed all the desirable requirements and was still not shortlisted. He also states that he was assessed against the "unpublished" selection criterion of "operational management" and that the hiring manager ignored a total of 12 years of relevant experience in

⁴ Impugned Judgment, paras. 24 and 25.

⁵ *Ibid.*, paras. 33-41.

management of project operations and one additional year at the Organization, all of which was not reflected in the spreadsheet on which basis the decision was taken.

35. Concerning staff selection, Article 101.1 of the Charter of the United Nations establishes the authority of the Secretary-General to appoint staff under regulations established by the General Assembly. Article 101.3 provides that “[t]he paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity”, and that “[d]ue regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible”. The power of the Secretary-General to appoint staff members is reiterated in Staff Regulation 4.1. Specifically regarding the pre-screening and assessment and the selection decision ST/AI/2010/3, as applicable at the time, provides in relevant part that:

Section 7 Pre-screening and assessment

7.1 Applicants applying to job openings will be pre-screened on the basis of the information provided in their application to determine whether they meet the minimum requirements of the job opening.

7.2 OHRM, the local human resources office or the Field Personnel Division of the Department of Field Support will release electronically to the hiring manager (for position-specific job openings) and occupational group manager (for generic job openings), within and/or shortly after the deadline of the job opening, the applications of candidates who have successfully passed the pre-screening process, together with the names of pre-approved eligible candidates, for consideration for selection.

7.3 OHRM, the local human resources office or the Field Personnel Division of the Department of Field Support has the authority to pre-screen individuals identified through an outreach strategy aiming for target groups in terms of gender, geography and/or specialized expertise within the deadline of the job opening. The applications of successful candidates will be released to the hiring or occupational group manager.

7.4 The 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 job opening based on a review of their documentation.

7.5 Shortlisted candidates shall be assessed to determine whether they meet the technical requirements and competencies of the job opening. The assessment may include a competency-based interview and/or other appropriate evaluation mechanisms, such as written tests, work sample tests or assessment centres.

7.6 For each job opening, the hiring manager or occupational group manager, as appropriate, shall prepare a reasoned and documented record of the evaluation of the proposed candidates against the applicable evaluation criteria to allow for review by the central review body and a selection decision by the head of the department/office.

7.7 For position-specific job openings, up to and including the D-1 level, the hiring manager or occupational group manager shall transmit his/her proposal for one candidate or, preferably, a list of qualified, unranked candidates, including normally at least one female candidate, to the appropriate central review body through OHRM, the local human resources office or the Field Personnel Division of the Department of Field Support. OHRM, the local human resources office or the Field Personnel Division shall ensure that, in making the proposal, the hiring manager or occupational group manager has complied with the process.

...

Section 9

Selection decision

...

9.4 Candidates for position-specific job openings up to and including at the D-1 level included in a list endorsed by a central review body other than the candidate selected for the specific position shall be placed on a roster of candidates pre-approved for similar functions at the level of the job opening, which shall be drawn from all duty stations for job openings in the Professional and above categories and the Field Service category. Following the selection decision, roster candidates shall be retained in a roster indefinitely or until such time the present administrative instruction is amended. Candidates included in the roster may be selected by the head of department/office for a subsequent job opening without reference to a central review body.

36. With regard to the standard of review in matters regarding staff selection, the jurisprudence of this Appeals Tribunal is well-established that, under Article 101.1 of the Charter of the United Nations and Staff Regulations 1.2(c) and 4.1, the Secretary-General has broad discretion to appoint staff. The jurisprudence of the Appeals Tribunal has clarified that in judicially reviewing administrative decisions regarding staff selections, “the following factors are considered: (1) whether the procedure as laid down in the Staff Regulations and Rules was followed; (2) whether the staff member was given full and fair consideration[;] and (3) whether the

applicable Regulations and Rules were applied in a fair, transparent and non-discriminatory manner.”⁶ The Tribunals’ role is not to substitute their decision for that of the Administration.⁷

37. In this regard, the UNDT found that Mr. Ponce-Gonzalez’s candidacy was given full and fair consideration, and that there was no evidence of his significant chances of selection over the selected candidate, nor of any procedural irregularities. The UNDT also found that the hiring manager’s assessment was proper when comparing the PHPs of the selected candidate and Mr. Ponce-Gonzalez’s.⁸ The Appeals Tribunal finds no reason to differ from this conclusion. Mr. Ponce-Gonzalez’s vain attempts to reargue his case are not enough to persuade the Appeals Tribunal that there was an error in fact leading to a manifestly unreasonable decision by the UNDT.

38. Moreover, the “operational management experience” which the selection exercise found that Mr. Ponce-Gonzalez lacked can be reasonably construed as being part of the broader work experience required by the job opening in question, which mentioned that “[e]xperience planning and administering complex organizational resources in a volatile environment is desirable”. Despite Mr. Ponce-Gonzalez’s relevant experience and competence in a number of areas as acknowledged by the comparative review in the selection exercise, he was not considered suitable for the position. The Administration did not ignore any previous experience, but rather found that it was not sufficient for the position.

39. Further, Mr. Ponce-Gonzalez’s seniority was to be assessed together with other criteria and considerations for which the Administration and not the Tribunal is technically and legally competent. In this regard, Mr. Ponce-Gonzalez’s argument of entitlement to a promotion provided that he fulfills the required and desirable requirements is misplaced. There is no evidence that the exercise of discretion in assessing the comparative review was such that the impugned decision was arbitrary, discriminatory or irregular.⁹ Mr. Ponce-Gonzalez’s candidacy therefore received full and fair consideration and his other claims concerning the formality of the

⁶ *Asr Ahmed Toson v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1249, para. 28.

⁷ *Verma v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2018-UNAT-829, para. 13. See also *Riecan v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-802, para. 13.

⁸ Impugned Judgment, paras. 35-41.

⁹ *Elzarov v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-893, para. 38.

spreadsheet showing the comparative review or other allegations against the record of the contested decision are unsubstantiated and inconsequential for the purposes of the present case.

40. In light of the foregoing and given the limits of the judicial review in cases such as the present one, there is no room for awarding any compensation, nor for a referral for accountability. The appeal fails.

Judgment

41. Mr. Ponce-Gonzalez's appeal is dismissed, and Judgment No. UNDT/2022/029 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 24th day of March 2023 in New York, United States.

(Signed)

Judge Halfeld, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Raikos

Judgment published and entered into the Register on this 11th day of May 2023 in New York, United States.

(Signed)

Juliet Johnson, Registrar