



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2024-UNAT-1497

Leonid Dolgoplov
(Appellant)

v.

Secretary-General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge Leslie F. Forbang, Presiding Judge Nassib G. Ziadé Judge Graeme Colgan
Case No.:	2023-1861
Date of Decision:	25 October 2024
Date of Publication:	9 December 2024
Registrar:	Juliet E. Johnson

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Sylvia Schaefer

JUDGE LESLIE F. FORBANG, PRESIDING.

1. Mr. Leonid Dolgoplov (Mr. Dolgoplov), a staff member with the Department of Operational Support (DOS), contested the decision not to select him for the position of Administrative Officer at the P-3 level with the United Nations Human Settlements Programme (UN-Habitat) in Nairobi, Kenya, advertised under Temporary Job Opening 161651 (TJO 161651) (contested decision).
2. On 14 August 2023, by Judgment No. UNDT/2023/086 (impugned Judgment),¹ the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) concluded that the contested decision was lawful, as Mr. Dolgoplov's candidature was given full and fair consideration, and dismissed his application.
3. Mr. Dolgoplov lodged an appeal against the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal).
4. For the reasons set out below, the Appeals Tribunal dismisses the appeal and affirms the impugned Judgment.

Facts and Procedure

5. At the relevant time of events, Mr. Dolgoplov served as an Associate Administrative Officer at the P-2 level on a continuing appointment at DOS, in New York, United States.
6. On 4 February 2021, Mr. Dolgoplov applied for the temporary position of Administrative Officer at the P-3 level with UN-Habitat in Nairobi advertised under TJO 149241. He was subsequently invited for a written assessment and competency-based interview (CBI), following which he was shortlisted. However, the Administration selected another candidate who received a higher rating in the CBI.
7. On 15 July 2021, the selected candidate withdrew her candidature for the position.² As a result, the Administration canceled TJO 149241 and, on 11 August 2021, re-advertised the position under TJO 161651.³ On 12 August 2021, Mr. Dolgoplov applied for the position.⁴

¹ *Dolgoplov v. Secretary-General of the United Nations*, Judgment No. UNDT/2023/086.

² E-mail from the selected candidate to the Administration dated 15 July 2021.

³ TJO 161651.

⁴ Management evaluation response dated 20 December 2021.

8. On 20 August 2021, TJO 161651 closed in Inspira. A total of 60 candidates applied for the position. Four candidates, including Mr. Dolgopolov, were shortlisted. However, following a comparative analysis of the candidates, Mr. Dolgopolov was ranked second. He was therefore recommended as the second choice for the position, along with another candidate who was ranked first (the selected candidate).⁵ The Administration ultimately selected the candidate with the higher rating.

9. On 12 November 2021, Mr. Dolgopolov requested management evaluation of the contested decision.⁶

10. On 20 December 2021, the Under-Secretary-General for Management Strategy, Policy and Compliance (USG/DMSPC) informed Mr. Dolgopolov of her decision to uphold the contested decision.⁷

11. On 30 January 2022, Mr. Dolgopolov filed an application with the Dispute Tribunal challenging the contested decision.

Impugned Judgment

12. On 14 August 2023, the Dispute Tribunal issued the impugned Judgment, dismissing Mr. Dolgopolov's application. The UNDT first observed that the Administration conducted a comparative analysis of the four shortlisted candidates, in accordance with the requirements set out in Section 3.5 of Administrative Instruction ST/AI/2010/4/Rev. 1 (Administration of temporary appointments). The Dispute Tribunal further observed that, contrary to Mr. Dolgopolov's argument, the record did not indicate that he was a better candidate than the selected candidate. On the contrary, the UNDT emphasized that Mr. Dolgopolov "scored 89 out of 100 and was ranked number [two] in the comparative analysis (...) [while] [t]he [selected] candidate scored 98 out of 100".⁸ Therefore, the UNDT concluded that the contested decision was lawful on the basis that the selected candidate had more experience than Mr. Dolgopolov and was consequently appropriately ranked as the strongest candidate.⁹ In this regard, the UNDT highlighted that, pursuant to Appeals Tribunal jurisprudence, "experience

⁵ Memorandum from the Chief Human Resources Officer, Management, Advisory and Compliance Service to the UN-Habitat Executive Director dated 27 August 2021.

⁶ Management evaluation request dated 12 November 2021.

⁷ Management evaluation response dated 20 December 2021.

⁸ Impugned Judgment, para. 23.

⁹ *Ibid.*, para. 26.

requirements are considered objective criteria for selection, which reduce the risk of subjective and unfair comparisons”.¹⁰

13. The UNDT also found that the Administration appropriately considered the fact that the selected candidate was a woman, and that her selection contributed to the Organization’s gender targets outlined in Section 4 of Administrative Instruction ST/AI/2020/5 (Temporary special measures for the achievement of gender parity), particularly since gender parity targets had not yet been achieved at the P-3 level at the time of the recruitment.¹¹

14. The UNDT rejected Mr. Dolgoplov’s argument that, under Article 101(3) of the United Nations Charter and Staff Regulation 4.2, he should have been given priority consideration due to his Russian nationality, which is from an under-represented country. On the contrary, the UNDT observed that, as he was already a United Nations staff member, his selection for the position would not have affected the representation level of the Russian Federation within the Organization, which is evaluated across the Organization as a whole.¹²

15. Last, the UNDT found that, contrary to Mr. Dolgoplov’s contention, the use of a grading methodology or the administration of a written assessment or a CBI, while helpful, was only optional for the recruitment of temporary positions pursuant to ST/AI/2010/4/Rev. 1.¹³ In this regard, the UNDT observed that Mr. Dolgoplov’s reliance on *Virendra Singh Chhikara* was misplaced,¹⁴ as that case concerned the selection process related “to a permanent, not temporary, post and so subject to the extensive assessment procedures in [Administrative Instruction ST/AI/2010/3 (Staff selection system)] which [were] not applicable in the present case”.¹⁵

16. Therefore, the UNDT rejected Mr. Dolgoplov’s application, concluding that the Administration had shown that the applicable recruitment procedure for the position had been followed and that his candidature had been given full and fair consideration.¹⁶

Procedure before the Appeals Tribunal

¹⁰ *Ibid.*, para. 31 referring to *Charles v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-284.

¹¹ *Ibid.*, para. 24.

¹² *Ibid.*, para. 25.

¹³ *Ibid.*, paras. 28 and 31.

¹⁴ *Virendra Singh Chhikara v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1014.

¹⁵ Impugned Judgment, para. 30.

¹⁶ *Ibid.*, paras. 32-33.

17. On 2 October 2023, Mr. Dolgopolov filed an appeal against the impugned Judgment with the Appeals Tribunal, to which the Secretary-General responded on 31 October 2023.

Submissions

Mr. Dolgopolov's Appeal

18. Mr. Dolgopolov requests the Appeals Tribunal “to reverse [the impugned] Judgment for (...) review by a different judge”.¹⁷

19. Mr. Dolgopolov submits that the UNDT committed several errors of fact and law in the impugned Judgment.

20. Mr. Dolgopolov contends that the UNDT violated Staff Regulation 4.3 by failing “to analyze comprehensively the whole picture of the recruitment process which was a perfect example of positive discrimination when the [A]dministration tailored the recruitment process to hire the intended candidate”. In this regard, he argues that the Administration focused on selecting a woman, even though the recruitment process for TJO 149241 showed that he was clearly the “strongest candidate”. Furthermore, he contends that the Administration’s decision to re-advertise the temporary position after the selected candidate for TJO 149241 withdrew her candidature, instead of offering him (as the second-ranked candidate) the position, further demonstrates that the recruitment process was “tailored”.

21. Mr. Dolgopolov contends that the UNDT failed to consider decisive facts in the impugned Judgment. He submits that although his “qualifications, experience and skills” were superior to those of the selected candidate, his scores related to his professional experience were rated too low. He also highlights that his knowledge of another official United Nations language was not taken into consideration.

22. Relying on the Memorandum dated 27 August 2021, Mr. Dolgopolov questions how the Administration could have reached the conclusion that the selected candidate had “the requisite breadth, knowledge and strategic thinking required for the post” or that he “demonstrated solid knowledge of Human Resources” without administering a technical assessment.¹⁸

¹⁷ Appeal form.

¹⁸ Memorandum from the Chief Human Resources Officer, Management, Advisory and Compliance Service to the UN-Habitat Executive Director dated 27 August 2021.

23. Mr. Dolgopolov asserts that the UNDT ignored his Motion for production of documents filed on 11 March 2022, in which he requested disclosure of the results of the technical assessment and the CBI for TJO 149241.¹⁹

24. Mr. Dolgopolov observes that the use of a more expedited procedure for the selection process of temporary positions does not relieve the Administration of its obligation to comply with the requirements set out in Article 101(3) of the United Nations Charter and Staff Regulations 4.2, especially in the present case, where the recruitment process lasted seven months, which is a “timeframe for the filling [of] regular vacancy”.

25. Relying on *Virendra Singh Chhikara*,²⁰ Mr. Dolgopolov submits that the UNDT erred in concluding that there was no “legal requirement to develop a point allocation matrix for the comparative review for the [recruitment of TJO 161651]”.

26. Last, Mr. Dolgopolov submits that the UNDT erred in finding that, as he was already a United Nations staff member before the recruitment process, his selection for the position would not have affected the representation level of the Russian Federation within the Organization, which is evaluated across the entire Organization as a whole. He argues that the legal framework does not make “any exception to the recruitment of external candidates only”.

The Secretary-General’s Answer

27. The Secretary-General requests the Appeals Tribunal to dismiss the appeal in its entirety.

28. The Secretary-General contends that the UNDT correctly concluded that the contested decision was lawful.

29. The Secretary-General submits that Mr. Dolgopolov failed to demonstrate any error in the impugned Judgment, but is merely re-litigating his case, contrary to the purpose of the appeals process. Indeed, relying on Appeals Tribunal jurisprudence, the Secretary-General recalls that it is not sufficient for Mr. Dolgopolov to merely repeat the arguments submitted before the

¹⁹ Motion for production of documents dated 11 March 2022.

²⁰ *Virendra Singh Chhikara* Judgment, *op. cit.*

Dispute Tribunal, as the appeals procedure is not an opportunity for a party to reargue the case.²¹ The Secretary-General argues that the appeal should be dismissed on this ground alone.

30. Nevertheless, even if the Appeals Tribunal were to consider those arguments, the Secretary-General contends that they have no merit. The Secretary-General submits that the UNDT properly found that the comparative analysis made by the Administration, which included “the evaluation, scoring and comparison of candidates based on objective, experience-focused criteria” was in line with Section 3.5 of ST/AI/2010/4/Rev.1. With regard to the inclusion of the knowledge of another official United Nations language as a criterion in the comparative analysis, the Secretary-General points out that it was a discretionary decision and not a mandatory one. Similarly, the Secretary-General notes that, pursuant to this Administrative Instruction, the administration of a written test for the selection process of temporary positions is not mandatory.

31. The Secretary-General submits that the UNDT correctly found that the selected candidate had more experience than Mr. Dolgopolov and that the Administration appropriately ranked her with a score of 98 out of 100 points in the comparative analysis.

32. Furthermore, the Secretary-General contends that the UNDT properly determined that the selection of a woman contributed to achieving the Organization’s gender targets outlined in Section 4.2 of ST/AI/2020/5. In this regard, relying on Appeals Tribunal jurisprudence, the Secretary-General highlights that “[t]aking such factors into account did not in and of itself amount to discrimination”.²²

33. The Secretary-General observes that Mr. Dolgopolov’s contentions regarding the cancellation of TJO 149241 are irrelevant, as he never challenged that cancellation before the UNDT. Consequently, that cancellation decision is not part of the contested decision under review before the Appeals Tribunal.

34. The Secretary-General notes that the recruitment process did not last seven, but only one month and that, in any event, “the staff selection for temporary positions falls under (...) ST/AI/2010/4/Rev. 1 irrespective of the ultimate duration of the recruitment process”.

²¹ *Antaki v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-096, para. 21; *Ilic v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-051, para. 29.

²² *Elzarov v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-893, para. 38.

35. The Secretary-General argues that *Virendra Singh Chhikara* and ST/AI/2010/3 are not applicable to the present case as they concern the selection process related to permanent positions, which is different from temporary appointments that are “meant to expeditiously address the short-term staffing needs of the Organization”.

36. Last, the Secretary-General submits that the Administration had no obligation to consider Mr. Dolgopolov’s nationality when taking the contested decision and that, in any event, Mr. Dolgopolov failed to demonstrate how the UNDT’s alleged error in this regard impacted the impugned Judgment.

Considerations

37. We recall that the jurisdiction of the Appeals Tribunal is governed by Article 2(1) of the Appeals Tribunal Statute (Statute) which provides:

The Appeals Tribunal shall be competent to hear and pass judgement on an appeal filed against a judgement rendered by the United Nations Dispute Tribunal in which it is asserted that the Dispute Tribunal has:

- (a) Exceeded its jurisdiction or competence;
- (b) Failed to exercise jurisdiction vested in it;
- (c) Erred on a question of law;
- (d) Committed an error in procedure, such as to affect the decision of the case; or
- (e) Erred on a question of fact, resulting in a manifestly unreasonable decision.

38. We also remind ourselves that jurisdiction means the authority of a tribunal to decide matters that are litigated before it or take cognizance of matters that are presented in a formal way for its decision. Tribunals are therefore strictly bound by the terms of the law that confers jurisdiction on them.

39. We agree with the Secretary-General that as per our settled case law the “appellant has the burden of satisfying the Appeals Tribunal that the judgment rendered by the Dispute Tribunal is defective”.²³ We have repeatedly ruled that an appeal is not “an opportunity for the parties to reargue their case”²⁴ and that it is not sufficient for an appellant to merely “repeat the arguments submitted before the first instance court”.²⁵

²³ *Ilic Judgment, op.cit.*

²⁴ *Antaki Judgment, op. cit.*

²⁵ *Al-Moued v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2014-UNAT-458, para. 19.

40. In strict adherence to the principles above, an appeal that fails to identify any of the five grounds of appeal prescribed by Article 2(1) of the Statute is not receivable.

41. Under Article 101(1) of the United Nations Charter and Staff Regulations 1.2(c) and 4.1, the Secretary-General has broad discretion in matters of staff selection. Our consistent jurisprudence established that while the discretion of the Secretary-General is broad, it is not unfettered and is subject to judicial review.²⁶

42. Appeals Tribunal jurisprudence further clarified that, in reviewing non-selection decisions, “it is the role of the UNDT or the Appeals Tribunal 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 their decision for that of the Administration.²⁷

43. In non-selection cases, all official acts are presumed to have been regularly performed. This presumption stands satisfied if the Administration is able to minimally establish that the staff member’s candidature was given full and fair consideration. Thereafter, the burden shifts to the staff member, who must show by clear and convincing evidence that he/she was denied a fair chance of selection.²⁸

44. Accordingly, a staff member challenging a non-selection decision must prove through clear and convincing evidence any of the following grounds: “that the interview and selection procedures were violated; that the members of the panel were biased; that the panel discriminated against an interviewee; that relevant material was ignored or irrelevant material was considered; and potentially other grounds depending on the facts of each case”.²⁹

45. In the present case, Mr. Dolgoplov contends, *inter alia*, that the UNDT failed to comprehensively analyze the “whole picture” of the recruitment process, which, in his view, was a perfect example of positive discrimination because TJO 149241 was canceled and re-advertised to bring a female candidate on board, which had been the initial focus of the

²⁶ *Nikolarakis v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-652, para. 28.

²⁷ *Riecan v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-802, para. 13; *Al-Mussader v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-771, para. 15.

²⁸ *Rolland v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-122, para. 26.

²⁹ *Majbri v. Secretary-General of the United Nations*, Judgment No. 2012-UNAT-200, para. 30. See also *Rolland* Judgment, *op. cit.*, para. 21.

recruitment process. He further submits that while gender empowerment is a “noble cause”, it should be pursued professionally and in accordance with the relevant legal framework.

46. Conversely, the Secretary-General argues that the UNDT correctly identified and applied the legal framework and standard of review applicable for staff selection for temporary appointments as well as the special measures for achieving gender parity.

47. We note that Mr. Dolgoplov failed to challenge the cancellation of TJO 149241. Therefore, this Tribunal cannot look into any allegations regarding its unfairness. In the same vein, we agree with the Secretary-General that the selection process and the cancellation of TJO 149241 are irrelevant to this case as the contested decision under review is Mr. Dolgoplov’s non-selection for TJO 161651.

48. In any event, the cancellation and re-advertisement of a vacancy fall within the Administration’s broad discretion in staff selection. Therefore, the Administration was under no obligation to invite the second-ranking candidate to accept the position after the first-ranking candidate declined, nor to complete a recruitment process once initiated.

49. In *Kinyanjui*, we emphasized that:³⁰

... In the Appeals Tribunal’s view, the Administration is not under an obligation to pursue a recruitment procedure once begun, by filling the post which has become vacant. This falls within the discretionary authority of the Administration to terminate a recruitment procedure and/or to initiate a new one. The rule is nonetheless that, in filling the post, the Administration must proceed with the appointment of successful candidates in accordance with the recruitment results. However, it can deviate from that rule for sound reasons, justifying its decision clearly and fully, i.e. on account of irregularities occurred in the recruitment process or for reasons connected with the interests of the service, while providing an adequate statement of the reasons thereof which are subject to the above mentioned jurisprudential principles of judicial review as to their correctness and veracity.

...

... It follows from the foregoing that the contested decision, which impliedly withdrew the initial recruitment procedure by opening a fresh one, is well-founded and justified on grounds valid in law, sufficient to permit the appointing authority to disregard any part of the results of the initial recruitment process and to commence a new recruitment exercise by re-advertising the position. It is irrelevant in this respect

³⁰ *Kinyanjui v. Secretary-General of the United Nations*, Judgment No. 2019-UNAT-932, paras. 21 and 24.

whether these needs existed *ab initio* or came into the limelight *ex post facto*. The fact—critical for the consideration of the legality of the contested decision—is that these needs existed and were crucially connected to the interests of the service (...).

50. Furthermore, Mr. Dolgoplov submits that the selection tools for TJO 161651 were changed from a technical assessment and CBI to a desk review, which, in his view, provided the hiring manager with more room for manipulation and adjustment of candidates' ratings in order to select a female candidate. We conclude that TJO 161651 was not contingent upon the initial TJO and should be viewed as a new job opening with its own requirements, for which the Administration is called upon to make a fresh decision after examining all candidates.

51. In addition, pursuant to Section 3.5 of ST/AI/2010/4/Rev.1, the assessment of candidates' technical requirements and competencies for a temporary position is primarily done through a comparative analysis of candidatures. Hence, assessments through CBI or other appropriate evaluation mechanisms, such as written tests, work sample tests, and assessment centers, are optional. In the light of the foregoing, it is inappropriate for Mr. Dolgoplov to set out his own rules for selecting and assessing candidates. As we held in *Riecan*, "the Administration has wide discretion to choose the best evaluation method, in order to assess which candidates are most qualified for selection".³¹

52. Mr. Dolgoplov argues that the UNDT failed to consider crucial facts, which he claims clearly demonstrate the irregularity of the selection process. He alleges that the score assignment in the competitive review process for TJO 161651 was neither transparent nor fair, since he was rated too low for the professional experience criteria, no points were allocated for knowledge of an additional United Nations official language, the selected candidate had substantially lower qualifications, experience and skills than he, and it is impossible to measure knowledge and strategic thinking by examining only candidates' applications. These allegations are unsubstantiated by evidence and do not prove discrimination. We have consistently held that complaints of general discrimination are not sufficient, and cannot constitute real evidence of discrimination capable of overturning a non-selection decision.³²

53. Mr. Dolgoplov's arguments regarding the absence of a predetermined point allocation matrix for the comparative review of candidates for TJO 161651 and the obligation of the

³¹ *Riecan* Judgment, *op. cit.*, para. 22.

³² *Aliko v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-540, para. 38; *Ibekwe v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-179, paras. 29-30.

Administration to apply the principle of recruiting staff on a wide geographical basis are merely repetitions of arguments that did not succeed before the UNDT and cannot be re-litigated on appeal.

54. This Tribunal has consistently held that:³³

... (...) [T]he appeals procedure is of a corrective nature and is thus not an opportunity for a party to reargue his or her case. A party cannot merely repeat on appeal arguments that did not succeed in the lower court. Rather he or she must demonstrate that the court below has committed an error of fact or law warranting intervention by the Appeals Tribunal.

55. In *Ross*, we emphasized that:³⁴

... (...) [T]he Appeals Tribunal is not a forum for a party to reargue the case without identifying the defects and demonstrating on which grounds an impugned UNDT judgment is erroneous. More is required. The appellant must demonstrate that the UNDT has committed an error of fact or law warranting intervention by this Tribunal.

56. Further, Mr. Dolgoplov asserts that the recruitment process was irregular because the overall recruitment process was not abbreviated. He claims that it took seven months from the publication of TJO 149241 to the actual completion of the recruitment process for TJO 161651, whereas TJO vacancies are usually filled within one to two months, while seven months is a timeframe for filling a regular vacancy.

57. A closer look at TJO 161651 reveals the following facts: the position title clearly indicates that it was a TJO; the vacancy announcement contains a special notice stating that the position was temporarily available for 364 days; the selection was to be administered as a temporary assignment; and the posting period was from 11 to 20 August 2021.

58. Based on the above, we agree with the Secretary-General's contention that Mr. Dolgoplov's arguments in this regard are misguided and, at best, constitute an attempt to apply the legal framework for the recruitment process under ST/AI/2010/Rev.1 to ST/AI/2010/3.

³³ *Dannan v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugee in the Near East*, Judgment No. 2013-UNAT-340, para. 14. See also *Roig v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-491, para. 14; *Sanwidi v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-321, para. 8.

³⁴ *Ross v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1000, para. 65.

However, the latter requires a more extensive assessment, as it concerns the selection process for permanent positions, whereas ST/AI/2010/4/Rev.1 is designed to expeditiously address short-term staffing needs. Further, we emphasize that Mr. Dolgoplov's view that TJO 161651 is a continuation of TJO 149241 is erroneous. The latter was canceled and has no bearing on TJO 161651, which was a new job opening.

59. Turning to the case at bar, we are satisfied that the Secretary-General discharged his minimal burden of demonstrating that Mr. Dolgoplov's candidature was given full and fair consideration by taking the following steps: informing him of the re-advertised TJO; shortlisting him and three other candidates from a pool of 60 applicants; applying a comparative analysis to score all four shortlisted candidates; recommending Mr. Dolgoplov as the second choice for the position, along with the selected candidate, based on their ranking scores; and selecting the candidate with the highest score for the position, based on a comparative analysis.

60. Regarding the circumstances of the present case, we are satisfied that, in accordance with our consistent jurisprudence, Mr. Dolgoplov has failed to demonstrate by clear and convincing evidence that he was denied a fair chance of selection. He also failed to prove that the comparative analysis applied by the Administration was not conducted in a fair, transparent, and non-discriminatory manner.

61. Having examined the grounds of Mr. Dolgoplov's appeal to determine whether his candidature received full and fair consideration, we remind the parties that it is settled jurisprudence that the Secretary-General is vested with broad discretion when making decisions regarding staff selection. In the instant matter, the Secretary-General had a list of potential candidates for final selection, which included Mr. Dolgoplov, and could have selected any of the four shortlisted candidates when exercising his discretion.³⁵

62. The Secretary-General did not select Mr. Dolgoplov. Instead, he selected another candidate, taking into account, *inter alia*, the highest score on the comparative analysis and the temporary special measures for the achievement of gender parity, which helped the Organization meet its gender targets, as outlined in Section 4.2 of ST/AI/2020/5. Taking such factors into consideration did not, in and of itself, amount to discrimination. On the contrary, it was within the Secretary-General's discretion to do so. In fact, there is no evidence that, in

³⁵ *Elzarov Judgment, op. cit.*, para. 37.

the exercise of his discretion, the Secretary-General acted in an arbitrary, discriminatory or irregular manner.³⁶

63. Accordingly, we find that the decision not to select Mr. Dolgopolov for TJO 161651 was lawful.

³⁶ *Ibid.*, para. 38.

Judgment

64. Mr. Dolgoplov's appeal is dismissed, and Judgment No. UNDT/2023/086 is affirmed.

Original and Authoritative Version: English

Dated this 25th day of October 2024 in New York, United States.

(Signed)

Judge Forbang, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Colgan

Judgment published and entered into the Register on this 9th day of December 2024 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar