



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2023/023

Judgment No.: UNDT/2025/077

Date: 23 October 2025

Original: English

Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: Liliana López Bello

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Sandra Lando, UNHCR

Jan Schrankel, UNHCR

Introduction

1. The Applicant, a Project Control Officer with the Office of the United Nations High Commissioner for Refugees (“UNHCR”) in Addis Ababa, contests the decision not to select him for the position of Project Control Officer, P-3, in the Regional Bureau for Europe (“RBE”), advertised through Job Opening No. 38063, Position No. 10038353 (the “Position”).

2. For the reasons set forth below, the Tribunal decides to reject the application.

Facts

3. On 25 June 2022, the position was advertised in the context of the Fast Track Ukraine Emergency Situation. After a paper-based review of the candidatures of eligible candidates, the hiring manager decided to recommend a Group 2 female candidate as the first-choice, and two P-3 Group 1 male candidates as the second and third choices.

4. Following discussions with the Senior Human Resources Partner of the RBE, given that two other Group 1 candidates had also been found suitable for the position, it was agreed that the hiring manager would organize interviews to evaluate shortlisted candidates. In this context, the three candidates that had already been found suitable were invited to interviews, as well as two other P-3 Group 1 male candidates: one of whom was the Applicant.

5. On 26 and 29 July 2022, the shortlisted candidates were interviewed.

6. On 4 August 2022, the interview panel recommended the selected candidate as the only suitable candidate for the position, and submitted its interview report and scoring sheet to the Division of Human Resources (“DHR”), so that it could subsequently submit it to the Joint Review Board (“JRB”).

7. On 19 August 2022, DHR questioned the hiring manager about the lack of gender diversity in the interview panel, which was composed of three male staff members, stating:

Having reviewed the submission for JO 38063, we noted that the manager failed to constitute the panel in full accordance with the requirements of para. 85. of the Revised RAAI, i.e. "...The interview panel must be gender diverse. ...". Although interviews are not mandatory in the Fast Track vacancy management model, if the manager resorts to conducting interviews, the formal requirements of the Revised RAAI must be met.

The JRB previously identified non-compliance with these requirement as a procedural flaw, and DHR, therefore, must request that these requirements be fully met in strict accordance with the Revised RAAI for any other interviews planned by your Operation.

In view of our effort to respond to operational needs by filling positions timely in the context of the Ukraine emergency, DHR agrees to the recommendation and will submit this JO to the next JRB for its consideration. This, however, does not imply a guarantee of endorsement.

We kindly ask you to respond to this message and confirm your understanding of the panel composition requirements, as an assurance of future compliance that will be shared with the JRB.

8. In response, the hiring manager explained that his female colleagues were not available to take part in the process, and that it was hard to find someone else available on short notice.
9. During its 5 and 6 September 2022 session, the JRB endorsed the interview panel and DHR's recommendation.
10. On 12 September 2022, it was announced via UNHCR all-staff broadcast that a candidate from the Group 2 category was selected for the position. The name of the selected candidate was released on 14 October 2022, following her acceptance.
11. On 11 November 2022, the Applicant filed a request for management evaluation of his non-selection for the position.
12. On 16 January 2023, the Applicant received the response to his request for management evaluation. The non-selection decision was upheld.
13. On 16 April 2023, the Applicant filed the instant application.
14. On 22 June 2023, the Respondent filed his reply.

15. By Order No. 98 (GVA/2023) of 15 August 2023, the Tribunal instructed the Applicant to file a rejoinder, which he did on 30 August 2023.

16. By Order No. 35 (GVA/2024) of 18 April 2024, the Tribunal rejected the Applicant's motion for anonymity as well as his motion for exclusion of the management evaluation response from the case record. The Tribunal also instructed the parties to file their respective closing submissions.

17. The Respondent filed his closing submission on 2 May 2024.

18. On 29 May 2024, the Tribunal was informed by the United Nations Appeals Tribunal ("UNAT") that the Applicant had appealed Order No. 35 (GVA/2024).

19. By Order No. 64 (GVA/2024) of 31 May 2024, the Tribunal suspended these proceedings pending the outcome of the Applicant's interlocutory appeal of Order No. 35 (GVA/2024).

20. On 28 April 2025, UNAT published Judgment *BK 2025-UNAT-1526*, by which it granted the appeal in part and instructed the Dispute Tribunal to grant anonymity to the Applicant by redacting his name from all past and future orders and judgments.

21. By Order No. 48 (GVA/2025) of 9 May 2025, the Tribunal granted the Applicant's motion for anonymity, and instructed the Applicant to file closing submissions.

22. After a successful request for an extension of time due to a technical issue with the service of Order No. 48 (GVA/2025), the Applicant filed his closing submission on 17 June 2025.

Consideration

Scope of judicial review

23. It is well-established that the Secretary-General has broad discretion in matters of appointment and promotions and that, in reviewing such decisions, it is

not the role of the Tribunal to substitute its own decision for that of the Administration (*Lemonnier* 2017-UNAT-762, paras. 30-31).

24. The Tribunal's role is limited to examine "(i) whether the procedures as laid down in the Staff Regulations and Rules were followed; and (ii) whether the staff member was given fair and adequate consideration" (*Abbassi* 2011-UNAT-110, para. 23; *Majbri* 2012-UNAT-200, para. 35; *Ljungdell* 2012-UNAT-265, para. 30).

25. The Tribunal recalls that in selection and appointment matters, there is a presumption of regularity concerning the performance of official acts (*Krioutchkov* 2021-UNAT-1103, para. 29; *Rolland* 2011-UNAT-122, para. 26). Accordingly, in a recruitment procedure, if the Administration minimally shows that a staff member's candidature was given full and fair consideration, the burden of proof shifts to the candidate, who must then be able to show through clear and convincing evidence to have been denied a fair chance of promotion (*Flavio Mirella* 2023-UNAT-1334, para. 61).

26. In view of the foregoing, and having reviewed the parties' submissions and the evidence on record, the Tribunal defines the issues to be examined in the present case as follows:

- a. Whether the applicable procedures were properly followed;
- b. Whether the Applicant was given full and fair consideration; and
- c. Whether the decision was tainted by bias or extraneous factors.

Whether the applicable procedures were properly followed

Legal framework

27. The Recruitment and Assignments Policy (UNHCR/HCP/2017/2) ("RAP") provides, in its relevant parts, that:

Competitive Selection

11. Selection processes in UNHCR are guided by the paramount consideration to secure the highest standards of efficiency, competence and integrity in UNHCR's workforce. The

demonstration of professional integrity, adaptability, inclusiveness and up-to-date competencies, as well as attracting new skills and diverse perspectives are essential to the relevance of UNHCR in a competitive and evolving humanitarian environment. UNHCR will give full regard to Internal Applicants before considering a recruitment or conversion.

...

Assessment of Candidates

26. Candidates will be assessed against the requirements of the position set out in the job description and operational context on the basis of their academic qualifications and professional experience and performance record as well as the results of any written tests or interviews. If the shortlist contains candidates who are not internal applicants or upon application serve at a grade below the grade of the position, interviews of all short-listed candidates are mandatory. This does not apply to Fast Track positions. If the shortlist only contains internal applicants at the grade of the position, administering tests or holding interviews is not mandatory but nevertheless encouraged.

...

Fast Track Procedures

31. An emergency operation may trigger the creation of Fast Track positions following the deployment of the first Emergency Response Team and the High Commissioner's decision regarding UNHCR's involvement in a Level 1, 2 or 3 emergency operation. Due to the emergency nature and need to rapidly mobilize resources, eligibility requirements relating to rotation and SAL as well as limitations on the number of applications and interview requirements are waived. Eligibility criteria for applications to positions at a higher grade may be reduced for a first Fast Track assignment. However, the staff member must fulfil all eligibility requirements in order to apply to a subsequent Fast Track or regular position at the next higher grade.

28. Additionally, the Recruitment and Assignments Administrative Instruction (UNHCR/AI/2017/7/Rev.2) ("RAAI") provides, in its relevant parts, that:

9. Candidates will be assessed against position requirements set out in the job description and operational context on the basis of their qualifications, experience, and performance as well as on the results of any written tests or interviews, as applicable. Interviews should in principle be competency based.

10. The paramount consideration in selecting candidates for appointment and assignment is the necessity of securing the highest standards of efficiency, competence and integrity in UNHCR's workforce in accordance with corporate and operational needs and priorities, taking into consideration the personal and professional needs of individuals to the extent possible. Cross-regional and cross-functional exposure would also be favourably considered.

11. The Organization's goals to achieve gender parity and enhance diversity as well as preserving the international character of UNHCR's workforce and operations are of great importance when assessing candidates. To support these efforts, the Division of Human Resources (DHR) will proactively provide disaggregated data on gender and diversity to managers and periodically publish internal dashboards and statistical break-downs on diversity. According to availability, managers must include at a minimum two-thirds ($\frac{2}{3}$) female candidates on their shortlists; when submitting their views, managers must also include two-thirds female candidates in their preferences. When two or more candidates fully meet the requirements of a position and are considered substantially equally qualified to perform the functions, preference will be given to female candidates until gender parity is achieved at the respective grade level. DHR will collaborate with managers to review their current team compositions and seek diversity among candidates who meet qualifications of the job openings.

...

82. Interviews are encouraged but not mandatory when:

- a. the position is advertised under a Fast Track exercise, or
- b. if the manager shortlists only Group 1 candidates applying for a position at-grade.

...

85. Interview panels for P-1 to P-4 positions will be composed of a minimum of three members, including the manager of the position or his/her delegate, a representative from the functional unit, if applicable, and at least one other panelist. The interview panel must be gender diverse. All panel members must be at least at the grade of the position, with the majority of the panel members being at least one grade higher. An external panelist with relevant experience may also be invited to be a participant. Whenever possible, local human resources/administration will serve as the Secretary. DHR can monitor and provide oversight, if so required.

...

97. In order to ensure that critical needs in emergency operations are met promptly and efficiently, staff members when applying to Fast Track positions and in anticipation of a possible deployment:

...

e. must commit to take up the assignment within two weeks of the announcement; and

f. should seek functional clearance where applicable.

...

102. DHR will send the list of eligible candidates for a job opening to the respective Representative or their designate. DHR and the Representative or their designate will independently review the list of eligible candidates and subsequently agree on a joint shortlist of a minimum of three candidates for each job opening. Subject to availability and meeting all requirements of the position, the shortlist will include at least two candidates at grade and at least one female candidate. A brief narrative on the reasons why these shortlisted candidates are considered to best meet the requirements of the respective position will be documented by DHR in the shortlisting minutes. The narrative will also document that all eligible candidates have been reviewed and briefly indicate the main considerations that guided the shortlisting process. It is not required to formally and individually provide written narratives regarding candidates who were not selected for the joint shortlist.

103. Subsequently a joint recommendation meeting will take place between DHR, the Representative and the relevant Bureau where a candidate will be recommended. This process will be documented and minutes will reflect how and why the recommended candidate best meets the requirements of the position in question. It will also reflect the assessment of all other shortlisted candidates when a candidate from Group 2, or below grade is recommended for a Fast Track position. The JRB will be provided with the joint shortlist, the recommendation and the required documentation.

The selection process

29. The selection process for the position took place in the context of the emergency situation in Ukraine. It was advertised under the simplified Fast Track selection procedures, pursuant to the provisions above. The Applicant raises several arguments against the legality of the process, which will be examined in turn.

30. According to the Applicant, the selection process is vitiated because of the lack of gender diversity in the composition of the interview panel.

31. The Applicant is correct in that the interview panel was not gender diverse, as mandated by para. 85 of the RAAI. However, the Tribunal notes that said issue was acknowledged by DHR, which attested the following in its shortlisting matrix:

The participants noted that the manager convened an interview panel, however failed to constitute the panel in full accordance with the requirements of para. 85. of the Revised RAAI, i.e. The interview panel must be gender diverse. Nevertheless, the non-compliance was weighed against the context at hand (emergency context in response to the Ukraine situation), and the panel composition was found to be a non-decisive factor in that context. DHR therefore decided to exceptionally proceed with the review and recommendation, while reverting to the manager to avoid future non-compliance. [...]

32. In view of the foregoing, the Tribunal agrees with the Respondent that the procedural irregularity at hand was immaterial and inconsequential. Paragraph 85 of the RAAI aims to promote gender parity in line with the staffing objective outlined in its para. 11. In this case, the absence of gender diversity on the panel was noted and considered in the decision-making process. The justification provided for the unavailability of potential female panel members was acceptable, given the urgency and the critical need to fill the position promptly. More importantly, the panel's recommendation to appoint a female candidate aligned with the Organization's gender parity objective.

33. The Appeals Tribunal has consistently held that, when a procedural irregularity is identified in a selection process, the Tribunal must examine whether such error was causally linked to the decision not to select the candidate contesting the decision (*Kinyanjui* UNDT/2018/106, para. 38 (affirmed in appeal 2019-UNAT-932)):

However, the question for the Tribunal to address is whether these procedural flaws rendered the contested decision unlawful in that it had the effect of disadvantaging the Applicant such that his candidature did not receive full and fair consideration in the selection exercise. In *Dualeh* 2011-UNAT-175 and *Bofill* 2011-UNAT-174, two cases involving non-promotion during the

UNHCR 2008 promotions session, the Appeals Tribunal indicated that the correct approach where a procedural irregularity had been identified is to examine whether any such error of procedure was causally linked to the decision not to promote the applicants.

34. In *Ross* 2019-UNAT-926, para. 48, the Appeals Tribunal indicated that the principle in *Bofill* is not restricted to procedural irregularity. It specified that “any irregularity (procedural or substantive) in promotion cases will only give rise to an entitlement to rescission or compensation if the staff member has a significant or foreseeable chance for promotion. The irregularity must be of such a nature that, had it not occurred, the staff member would have had a foreseeable and significant chance for promotion”.

35. In this case, the Tribunal finds that the procedural irregularity in the composition of the interview panel was immaterial and did not affect the outcome of the selection process. Indeed, the Applicant was unanimously found not suitable for the position by the interview panel. The Tribunal considers it unlikely that replacing one male member of the interview panel for one female member would yield a different result given the Applicant’s performance at the interview.

36. With respect to the minimum requirements for the position, the Applicant argues that the selected candidate did not have experience at the international or regional level. However, as pointed out by the Respondent, experience at the international or regional level was not a requirement under the advertised Job Opening. The fact that the Applicant believes it should be a requirement is, therefore, irrelevant.

37. Having assessed the main arguments put forth by the Applicant, the Tribunal finds that the selection process was conducted according to the Fast Track procedures, and that the procedural flaw identified was not significant enough to warrant its invalidation.

Whether the Applicant was given full and fair consideration

38. The Applicant argues that he should have been given priority for the position due to his status as a “Group 1” (or “internal”) candidate, and that the Organization erred in selecting a “Group 2” candidate instead. He bases this argument in para. 11

of the RAP, which provides that the Organization “will give full regard to Internal Applicants before considering a recruitment or conversion”.

39. In the Tribunal’s view, however, the requirement to give “full regard” to internal applicants does not equate to an obligation to select an internal candidate. As decided in *Ross* UNDT/2018/108:

56. [...] an internal candidate has the right to be given the “fullest consideration”. He or she, however, has no right to have external candidates excluded from the competition, no matter the nature of the job advertised. A mere availability of “suitable” internal candidates does not bar the Organization’s seeking the best candidates available internally and externally.

...

61. Regarding the “fullest regard” under staff regulation 4.4 and para. 71 of the PPA, as affirmed recently by the Appeals Tribunal, it is not an entitlement of the staff member solely by virtue of being an internal candidate to be given priority consideration for a post. “Fullest regard” will rather denote an obligation to consider the internal candidate in the selection process by default, until she or he has been firmly disqualified from further competition. In the practical sense, this would mean, among other, an obligation on the part of the hiring manager to include the pre-screened internal candidate in a short list for interview where his or her qualifications are *prima facie* comparable to others on that short list.

40. In the instant case, the Tribunal considers that the selection process met its obligation to give full regard to internal candidates, including the Applicant and other Group 1 candidates, when it shortlisted four Group 1 candidates for the interview.

41. Furthermore, the Tribunal notes that the interview panel unanimously gave the Applicant a score of 1 or 2 on a 5-point scale for the four questions asked during the interview. This resulted in an average total score of 7.3 out of 20, the lowest score of the five shortlisted candidates.

42. In this context, the panel determined that two candidates from Group 1 and one from Group 2 were suitable for the position, with the Group 2 female candidate identified as the preferred choice. Therefore, even if the Tribunal were to assume,

purely for the sake of argument, that the Organization had an obligation to select a suitable candidate from Group 1, the Applicant would still have no valid claim, as he was not deemed suitable for the position. In fact, he had no significant or foreseeable chance of selection.

43. With respect to the Applicant's allegation that the panel "conspire[d] to nepotism", the Tribunal notices that the Applicant produced no evidence to support such claim. The allegation that "there is a significant possibility of the favoured candidate being aware of the interview questions and/or expected responses" is also unsubstantiated.

44. The Appeals Tribunal held that allegations of improper motives are "very serious and ought to be substantiated with evidence" (*Ross* 2019-UNAT-944, para. 25). The burden of proving improper motives rests with the person making the allegation (*Nwuke* 2015-UNAT-506, para. 49).

45. As the Applicant failed to substantiate any of his claims of irregularity and/or bias against him, these stand to be rejected.

46. Having found no evidence to support the contrary, the Tribunal considers that the Applicant was given full and fair consideration for the position, and that his non-selection was a reasonable exercise of administrative discretion.

Whether the decision was tainted by bias or extraneous factors

47. In his submissions, the Applicant alleged that bias and improper motives would have impacted the contested decision but as stated above, has not provided any evidence in support of these claims.

48. He furthermore alluded in his application to having the right to be protected as a "working whistleblower". Again, no evidence was provided: not of him being a recognized whistleblower by the Ethics Office; or of the contested decision being an act of retaliation against him for having engaged in a protected activity.

49. Accordingly, the Tribunal finds that the contested decision was not tainted by extraneous factors, bias or improper motives.

50. Since the contested decision is deemed lawful, the Applicant is not entitled to any remedies.

Conclusion

51. In view of the foregoing, the Tribunal DECIDES to reject the application in its entirety.

(Signed)

Judge Sun Xiangzhuang

Dated this 23rd day of October 2025

Entered in the Register on this 23rd day of October 2025

(Signed)

Liliana López Bello., Registrar, Geneva