



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2024/030  
Judgment No.: UNDT/2025/099  
Date: 28 November 2025  
Original: English

**Before:** Judge Francis Belle

**Registry:** New York

**Registrar:** Isaac Endeley

LANKOANDE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Nisha Patel, AS/ALD/OHR, UN Secretariat

Charlene Ndirangu, AS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant, a former staff member with the United Nations Multidimensional Integrated Stabilization Mission in Mali (“MINUSMA” or “the Mission”), contests his non-selection for six separate job openings (“JO”) or temporary job openings (“TJO”), “[d]espite being flagged to be given priority for vacancies in [his] category, following MINUSMA’s closure”.

2. In response, the Respondent claims that the appeals against four of the six JOs are not receivable and that, in any event, all the challenges are meritless.

## **Facts**

3. Beginning in 2018, the Applicant served with MINUSMA as an Associate Corrections Officer at the P-2 level. Initially, he was recruited on a temporary appointment, but on 1 October 2020, he was recruited on a fixed-term appointment, which, following various renewals, was extended until 30 September 2024.

4. By Security Council Resolution 2690 (2023) of 30 June 2023, it was decided to terminate the mandate of MINUSMA as of the same date. The Mission was requested to “immediately start on 1 July 2023 the cessation of its operations, transfer of its tasks, as well as the orderly and safe drawdown and withdrawal of its personnel, with the objective of completing this process by 31 December 2023” (see, para. 2).

5. On 31 August 2023, the Special Representative of the Secretary-General for MINUSMA informed the Applicant he “could not be retained in MINUSMA and as a result, [his] fixed-term appointment [would] be terminated in accordance with Staff Regulation 9.3(a)(i) effective” 20 September 2023 (emphasis in original omitted). It was further stated that this constituted “an official notice of the termination of [his] appointment in line with Staff Regulation 9.3(c) and Staff Rule 9.7”.

6. At the same time, the Applicant was notified that “[b]y virtue of [his] placement in retention group 1, as per Section 5.10 of ST/AI/2023/1 [Downsizing or restructuring resulting in termination of appointments], [he would] be given priority consideration for positions at [his] level or one level below within [his] category for applications”. This concerned applications “submitted within one month of the date of this letter as well as for any applications submitted before the date of this letter, provided that the deadline for application has not expired by that date”. He was therefore “encourage[d] to apply to suitable job openings or temporary job openings in Inspira if [he] wish[ed] to be considered for retention on suitable vacant positions outside MINUSMA”.

7. Following this guidance, the Applicant then applied for a number of job openings. This, at least, included the job openings mentioned in his application of 8 July 2024, namely:

- a. TJO 217636 the United Nations Environment Programme (“UNEP”) (“Decision No. 1”);
- b. TJO 216840 in the Department of Peace Operations (“DPO”) (“Decision No. 2”);
- c. TJO 217528 in UNEP (“Decision No. 3”);
- d. JO 216837 in the Office of the High Commissioner for Human Rights (“OHCHR”) (“Decision No. 4”);
- e. JO 217293 in OHCHR (“Decision No. 5”);
- f. TJO 217252 in the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (“OSRSG-SVC”) (“Decision No. 6”).

## Consideration

### *Scope of the case*

8. In his rejoinder of 4 March 2025, the Applicant stated that he “continue[d] to contest the legality of [his] non-selection for three separate Job Openings ... at the P-2 level [and] would like to focus on these three (3) positions”. These three positions are those listed above as Decisions Nos. 1, 2 and 3. Likewise, in his closing statement of 25 August 2025, he only referred to these three decisions and not to Decisions Nos. 4, 5 and 6.

9. In Order No. 091 (NY/2025) dated 18 November 2025, the Tribunal therefore instructed the Applicant to inform “whether he has abandoned his appeal against Decisions Nos. 4 to 6”. In his response, the Applicant confirmed that his “challenge remains strictly limited to Decisions Nos. 1, 2, and 3”.

10. Consequently, in the present Judgement, the Tribunal will only review his appeals concerning Decisions Nos. 1 to 3.

### *Receivability*

11. The Respondent submits that the Applicant’s appeals against Decisions Nos. 1 and 2 are not receivable. Generally, the Respondent argues that neither of these decisions were “administrative decisions under Article 2(1)(a) of the Statute” as they “did not produce ‘direct legal consequences’ for the terms and conditions of the Applicant’s appointment”, referring to art. 2.1(a) of the Statute of the Dispute Tribunal and the Appeals Tribunal’s judgments in, for instance, *O’Mullane* 2025-UNAT-1563, *AAQ* 2023-UNAT-1381, *Avramoski* 2020-UNAT-987, and *Faye* 2016-UNAT-657.

### Decision No. 1

12. The Respondent submits that the Applicant’s appeal against Decision No. 1 is not receivable because UNEP “cancelled” the selection exercise “before making any selection decision”. There was therefore “no final administrative [decision] that

breached the terms and conditions of the Applicant's appointment", referring to the Appeals Tribunal in *Kawamleh* 2018-UNAT-818, as well as *AAP* 2023-UNAT-1391.

13. The Applicant contends that "[t]he position was advertised and later cancelled without proper justification". Also, the "stated reason", namely "a new P-4 position ... clearly violate[s] the [O]rganization's own guidelines on post reclassification and abolition". This "deprived [him] of a legitimate opportunity for reassignment".

14. To begin with, the Tribunal notes that the parties do not agree on what the contested decision is—was it, as per the Respondent, a non-selection decision that never materialized because TJO 217636 was cancelled, or was it rather, as, in effect, argued by the Applicant, the very decision to cancel TJO 217636?

15. Regarding a decision to cancel a selection exercise, it is noted that the Appeals Tribunal has held that it "falls within the discretionary authority of the Administration to terminate a recruitment procedure and/or to initiate a new one" (see, *Kinyanjui* 2019-UNAT-932, para. 21, as affirmed in *Dolgoplov* 2024-UNAT-1497, para. 49). While the Administration may therefore decide to cancel a job opening, it also follows from the Appeals Tribunal's jurisprudence that such discretion is not unfettered (see, for instance, *Sanwidi* 2010-UNAT-084, paras. 38-42). A decision to cancel a temporary job opening, such as TJO 217636, is therefore, in principle, an administrative decision that the Dispute Tribunal may review under art. 2.1(a) of its Statute.

16. The next question is then which decision did the Applicant submit for management evaluation? Was it the non-selection decision or the cancellation decision? Hence, in accordance with staff rule 11.2(a), management evaluation is a mandatory "a first step" for the appeal to be receivable.

17. In the Applicant's request for management evaluation of 16 April 2024, he defined the contested decision as him "[n]ot [being] reassigned after MINUSMA closure despite of [his] 6 applications for P2 positions". Accordingly, even though

the Applicant made no specific reference to the cancellation of TJO 217636, he did, on the other hand, not limit his challenge to any specific non-selection decisions. In the management evaluation of 30 May 2024, the Under-Secretary-General for Management Strategy, Policy and Compliance (“the USG/DMSPC”), however, found that his request for management evaluation was “moot” because TJO 217636 had been cancelled. This would appear to imply that the USG/DMSPC found that the Applicant had not filed a management evaluation request against this cancellation decision but only against the non-selection decision that never occurred.

18. The Tribunal notes that the Appeals Tribunal has held that a self-represented applicant, such as the Applicant in the present case, is to be granted “a generous approach” when defining the grounds of appeal under art. 2.1(a) of the Appeals Tribunal’s Statute. The Tribunal finds that similar latitude must by analogy (*mutatis mutandis*) also be granted to a self-represented applicant in the management evaluation process. When reading the Applicant’s request for management evaluation, the Tribunal therefore finds that it can only reasonably be read as a challenge to the full selection exercise for each of the relevant six positions, including the decision to cancel TJO 217636, and not just the non-selection decisions.

19. Accordingly, the Respondent’s claim on non-receivability regarding Decision No. 1 is rejected.

#### Decision No. 2

20. The Respondent submits that Decision No. 2 was “not final when the Applicant sought a management evaluation review on 13 April 2024 because no candidates had been selected for the positions at that time”.

21. The Applicant contends that he “was denied selection based on a pass/fail written test, despite being the only remaining priority candidate, which renders such a test superfluous and inexplicable”.

22. Also concerning Decision No. 2, the parties therefore disagree on how to define the contested decision—while the Respondent simply refers to the non-selection decision, the Applicant effectively states that it was the decision to apply a written test regarding him in the selection exercise that is contested.

23. As above, since the Applicant is self-represented, he must be granted some latitude when defining the contested administrative decision. His broadly phrased 16 April 2024 management evaluation request must therefore also be construed as including an appeal against the compulsory written test, even though the USG/DMSPC more narrowly only referred to his non-selection for TJO 216840 in the 30 May 2024 management evaluation response.

24. Regarding the written test, the Tribunal notes that under staff rule 9.6(c), in a downsizing exercise, staff members, like the Applicant, on a fixed-term appointment can be retained on a particular priority basis provided that, among other circumstances, “due regard shall be given in all cases to relative competence”.

25. Along the same lines, sec. 5.16 of ST/AI/2023/1 provides that in “considering the suitability of downsized staff members for both job openings or temporary job openings outside the downsizing entity, hiring managers may ... administer a non-competitive assessment to determine solely whether the downsized staff member meets the technical requirements and competencies of the job opening or temporary job opening” to “be scored on a pass or fail basis”.

26. In a downsizing exercise, the Administration is therefore allowed to launch a non-competitive pass/fail test to ensure that a priority candidate, like the Applicant, possesses the required competence for a position outside the entity undergoing downsizing. As under Decision No. 1, this does not, however, mean that the Administration’s discretion is unfettered in this context, and the Applicant may indeed challenge DPO’s decision to do so in accordance with *Sanwidi*, as well as many other judgments of the Appeals Tribunal.

27. Consequently, the Respondent’s claim regarding the receivability of the Applicant’s appeal against this decision is rejected.

*The merits of the Applicant's claims*

28. The Tribunal notes that the Appeals Tribunal has held that “in judicially reviewing administrative decisions regarding staff selections, the Tribunal’s role is not to substitute its own decision for that of the Administration, but to assess whether the applicable regulations and rules have been applied and whether they were applied in a fair, transparent, and non-discriminatory manner” (see *Toson* 2022-UNAT-1249, para. 27, as well as many other judgments).

29. When reviewing a decision regarding a selection exercise, the Tribunal must consider the following factors: (a) “whether the procedure as laid down in the Staff Regulations and Rules was followed”; (b) “whether the staff member was given full and fair consideration”, and (c) “whether the applicable Regulations and Rules were applied in a fair, transparent and non-discriminatory manner” (see *Toson*, para. 28).

30. The Tribunal is to apply a “presumption of regularity” by which it is to assume that “official acts have been regularly performed”. This presumption “arises if the management can minimally show that the staff member’s candidature was given a full and fair consideration”. Thereafter “the burden of proof shifts to the staff member who must show through ‘clear and convincing evidence’ they have been denied a fair chance of promotion or selection” (see *Toson*, para. 29).

Decision No. 1

31. The Applicant, in essence, submits that it was unlawful for UNEP to cancel TJO 217636 in order to launch another temporary job opening at the P-4 level and his contentions may be summarised as follows:

- a. “The post in question was advertised on 12 September and closed before the end of [...] September 2023”. The Respondent “deliberately omit[ted] to provide any explanation why during the period from 1 October 2023 to 29 January 2024 (four months) [his] recruitment was not processed, despite a clear memo from [the Under-Secretaries-General for DMSPC] and DOS requiring that flagged candidates are selected within two weeks of the



closing of the deadline, unless there is a need to choose among flagged candidates”. This “clearly demonstrates the Hiring Manager’s intention not to abide by ST/AI/2023/1”, and “[t]hese four months constitute a ‘black hole’ in the Respondent’s account of events”.

b. The Respondent’s reference to the cancellation decision being reasonable due to “the loss of two experienced staff members and the responsibilities of a P-4 Legal Officer and Head of [Collective Intelligence Unit, “CIU”] “implicitly demonstrates the contradiction of the account, which avoids explaining why [his] selection was not processed in October 2023”. According to “the Respondent’s account, the part-time P-4 received in March 2024 the approval of going on special leave without pay as of 1 September 2024”. Given that “the P-2 was vacant, the Administration claims that it realized that it lost two ‘experienced staff members’, namely a P-4 and P-2”. “It could have had an equally experienced P-2 staff member in place, if [his] selection occurred in October 2023 as required by the applicable rules”. The Applicant “would have completed almost a year in service by 1 September 2024”.

c. It is “not surprising” that the Respondent states that the cancellation decision “was rational”. “By repeating a reference to its rationality, the response attempts to conceal its illogic[al] justification”. It “is hard to identify what is rational about [the failure] to respect the requirement of [his] selection from throughout the entire period of October 2023 until March 2024” and “constitutes a waste of the [O]rganization’s resources and efforts not to mention [the] violation of [his] rights”.

d. The Administration’s “response fully fails to provide the least justification why for several months [his] recruitment did not occur, while according to the Administration’s own assessment this should be a matter of two weeks”. “The missed opportunity resulting from the unlawfulness of the Administration’s omission remains undisputed and confirms [his] entitlement to a just remedy”.

32. The Respondent, on the other hand, submits that the cancellation decision was lawful and his contentions may be summarized as follows:

a. UNEP “reasonably exercised their broad discretion in staff selection matters to cancel the recruitments based on legitimate operational needs and financial constraints”. TJO 217636 concerned a P-2 level position and was cancelled “to fund a P-4 TJO to cover a Legal Officer on special leave”. The Applicant’s “speculation that the cancellation was ‘potentially’ used as [a] form of circumventing the priority consideration’ is not evidence of impropriety”.

b. On 12 September 2023, UNEP “advertised TJO 217636 on the planning assumption that it would be financed by the unused salary arrangements for position 30604906, encumbered by the Hiring Manager, a P-4 Legal Officer and Head of the Collective Intelligence Unit [“CIU”]”. “Position 30604906 was funded as a full-time post (100%); however, the Hiring Manager was able to work part-time (50%), with a long-standing P-2 Associate Information Systems Officer serving as the Officer-in-Charge in the Hiring Manager’s absence”. “The P-2 staff member resigned in August 2023”.

c. From 29 January to 1 February 2024, the Hiring Manager “met with the Director of the UNEP Law Division (Director) to discuss CIU’s strategic development and collaboration within UNEP”. The Hiring Manager “also informed the Director of her intention to take two years of full-time Special Leave Without Pay [“SLWOP”] starting 1 September 2024”. On 18 March 2024, “the Director approved the SLWOP”.

d. UNEP’s cancellation of TJO 217636 on 27 March 2024 was therefore “rational” and the TJO “was not for a budgeted position, but a project position based on the Hiring Manager’s confirmation to ‘remain on 50% salary payment until 1 October 2024 to facilitate the financing of the post’”. “Following the P-2 Associate Information Systems Officer’s resignation and the Hiring Manager’s planned full-time SLWOP, the CIU

faced significant staffing constraints”, and “[g]iven the loss of two experienced staff members and the responsibilities of a P-4 Legal Officer and Head of CIU, UNEP reasonably cancelled TJO 217636 to advertise a full-time P-4 TJO”. “The selected P-4 candidate commenced on 31 October 2024”.

33. The Tribunal notes that, as stated above, it falls within the Administration’s discretionary authority to cancel a selection exercise and/or initiate a new one” (see *Kinyanjui*, para. 21). “In assessing the reasonableness and rationality of the cancellation decision generally, regard must be had to the motive, purpose, basis and effect of the decision. If there is a rational connection between the purpose of the empowering provision, the information on which the decision is based and the purpose and reasons for it, the decision will be rational and thus reasonable and lawful”. (See *Canova* 2022-UNAT-1252, para. 35).

34. Regarding the present case, the Tribunal observes that the Respondent’s assertions are, in general, appropriately documented by relevant written evidence.

35. Initially, the funding for TJO 217636 was intended to come from an existing P-4 level Legal Officer post in the same entity (CIU); a setup that had previously been used to finance another temporary CIU P-2 level Associate Legal Officer position. When the incumbent P-4 Level Legal Officer, however, subsequently applied for a two-year SLWOP and this was approved, rather than funding the P-2 level Associate Legal Officer position under TJO 217636, it was instead decided to replace the P-4 level Legal Officer. Also considering that this P-4 level Legal Officer serves as the Head of CIU, as documented by an organigram submitted in evidence by the Respondent, this was a rational, reasonable and lawful exercise of UNEP’s discretion as per *Kinyanjui* and *Canova*. The four-month delay, referred to by the Applicant, does not, in and of itself, demonstrate that the cancellation decision was motivated by any other, and possibly ulterior, reasons, including circumventing the priority consideration of him as a downsized job candidate.

36. Accordingly, the Tribunal finds that, in accordance with the presumption of regularity, the Respondent has proved his case with a minimal showing and that the Applicant has not been able to rebut this finding with clear and convincing evidence. The Applicant's challenge against Decision No. 1 is therefore rejected.

#### Decision No. 2

37. The Applicant submits that he "was denied selection based on a pass/fail written test, despite being the only remaining priority candidate, which renders such a test superfluous and inexplicable". "The test was no longer necessary, and the selection of a non-priority candidate contravenes the downsizing rules". Whereas "ST/AI/2023/1 allow[ed] for an assessment of [his] technical knowledge", "the Administration fully fail[ed] to demonstrate what required technical knowledge was lacking in light of the test and how this was revealed by the exam conducted". "All its submissions failed to provide a solid explication, what type of technical knowledge required further assessment, how the exam addressed that need and what capacity gaps were revealed". "This failure confirms the lack of good faith".

38. The Respondent contends that "DPO provided the Applicant full and fair priority consideration, but he was not suitable because he failed 'a non-competitive assessment to determine solely whether [he] meets the technical requirements and competencies of the [...] temporary job opening", referring to sec. 5.16 of ST/AI/2023/1. The Applicant "does not dispute his test performance", and his "'opinion' on how DPO should have conducted the recruitment once he became the only candidate with priority consideration who completed the test is irrelevant".

39. The Tribunal notes that a requirement in TJO 216840 was "fluency in oral and written English". In the reply, the Respondent stated that "[t]he essay question" was to assess "the Applicant's qualifications against the required evaluation criteria of fluent written English" and that "[t]he Applicant did not write clearly (e.g., syntax, grammar), use technical terms correctly, organize text effectively (e.g., sub-headings, logical flow), and answer the question effectively". The test was "an objective non-competitive pass/fail written assessment which the Applicant failed".

40. Under sec. 5.16 of ST/AI/2023/1, DPO was indeed allowed to introduce a non-competitive pass/fail written assessment to determine whether the Applicant met the technical requirements and competencies of TJO 216840. When then reading the Applicant's test answer to the posed essay question, the Tribunal finds that DPO did not exceed its scope of discretion when finding that the Applicant failed the test (on the limited judicial review of this discretion, see, for instance, the Appeals Tribunal's seminal judgment in *Sanwidi*, paras. 38, 40-42). Further, the Applicant has provided no evidence of the alleged bad faith, and "the burden of proving any allegations of ill-motivation" rests with him (see, para. 38 of *Kisia* 2020-UNAT-1049, as well as many other judgments from the Appeals Tribunal).

41. Under the presumption of regularity, the Tribunal therefore finds that the Respondent has minimally demonstrated that Decision No. 2 was lawful and that the Applicant has failed to rebut this finding with clear and convincing evidence. Consequently, the Applicant's appeal against Decision No. 2 is rejected.

### Decision No. 3

42. The Applicant submits that the "job required two years of experience in project or programme management or administration". He "met this requirement, yet the Hiring Manager introduced new, unadvertised criteria after the closing of the deadline for the application". This "retroactive addition of qualifications violates ST/AI/2023/1, which mandates evaluation based solely on advertised minimum requirements".

43. The Respondent contends that UNEP provided the Applicant "full and fair priority consideration", but he was not deemed a suitable candidate following a desk review to determine solely whether he met the technical requirements and competencies of the temporary job opening. His "niche programme management experience in penitentiaries and a lack of directly relevant administration experience did not meet the advertised work experience requirements to strengthen a small team in 'a specialized inter-agency, science-focused, environmental and economic diplomacy and engagement high-level platform' during a busy period". Further, the Applicant has "not proven that the Administration's assessments of his

suitability” went “beyond what is reasonable in its interpretation and determination” of the advertised qualitative work experience requirements”. “Mere disagreement and his self-assessment of his suitability are not evidence”.

44. The Tribunal notes that in accordance with TJO 217528, the work experience requirements for the post, as relevant to the Applicant’s candidature, were (a) “[a] minimum of two years of progressively responsible experience in project or programme management, administration, or related area”, and (b) “1 year or more of experience in data analytics or related area is desirable”.

45. In an “evaluation report” signed on 20 and 21 November by the three members of the recruitment panel, the Applicant was highlighted as a “downsized” staff member “given priority consideration”, but it was concluded that he did “not have the required work experience essential to fulfilling the requirements of the position”.

46. In an undated “Non-Competitive Suitability Analysis and Screening”, the Applicant’s candidature “as presented in his formal application” was assessed in much detail against three suitability criteria, namely “Administration Including [Human Resources], Finance, Procurement”, “Programme Management”, and “Research and Data Analysis”. The final “Pass/Fail” assessment was that the Applicant’s candidature was unsuccessful in all three categories.

47. Based on this, the Tribunal finds that since the three applied suitability criteria properly reflected the requirements stipulated in TJO 217528, UNEP did not introduce any “new, unadvertised criteria” as otherwise submitted by the Applicant. Further, as per *Toson*, the assessment of the Applicant’s suitability for TJO 217528 followed all relevant procedures, the Applicant was given full and fair consideration, and the applicable legal framework was applied in a fair, transparent and non-discriminatory manner.

48. In accordance with the presumption of regularity, the Tribunal therefore finds that the Respondent has demonstrated with a minimal showing that the decision not to select the Applicant for TJO 217528 was lawful. Further, the

Applicant has not succeeded in rebutting this finding with clear and convincing evidence. Accordingly, the Applicant's challenge against Decision No. 3 is rejected.

### **Conclusion**

49. The application is rejected.

*(Signed)*

Judge Francis Belle

Dated this 28<sup>th</sup> day of November 2025

Entered in the Register on this 28<sup>th</sup> day of November 2025

*(Signed)*

Isaac Endeley, Registrar, New York