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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2020/012

Judgment No.: UNDT/2020/068

Date: 5 May 2020

Original: English

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**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

HEJAMADI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**

Dorota Banaszewska, OSLA

**Counsel for Respondent:**

Camila Nkwenti, UNEP

Isabel Martinez, UNEP

## **Introduction**

selection system) which provides for appropriate evaluation mechanisms of the candidates. She states that by providing such a short deadline for the response without prior notification, the Administration acted unreasonably and unjustly.

8. The Applicant further argues that the Administration acted against(a)4(c)pme to-9(mwn)JTJETC

14. The Respondent submits that the Applicant was afforded full and fair consideration in the recruitment process as she was shortlisted and invited to sit a written test. The Administration in this case minimally showed that the procedure was followed appropriately.

*Receivability*

15. arguments on the receivability of the application, the Tribunal will address this issue first.

16. this Tribunal has previously found that an applicant being found ineligible for a post or being excluded from a recruitment process were reviewable decisions.

17. The Respondent responds that the contested decision is not an administrative decision that is challengeable because t process does not have legal consequences as it was . The Applicant deprived herself of the possibility of being considered for selection for the position. The Applicant cannot therefore request the Organization to remedy the consequences of her own voluntary action.

18. As the Applicant rightly points out, in Order No. 117 (NY/2019) of 9 August 2019, the Tribunal acknowledges the jurisprudence of the Appeals Tribunal concerning the challenges brought against preliminary decisions in recruitment processes. The Tribunal referred to *Ishak* 2011-UNAT-152 in which the applicant sought administrative review and challenged the preliminary steps leading to the decision to ps may be challenged only in the context of an appeal against the outcome of the selection process,

19. The Tribunal distinguished *Ishak* from the case in which the applicant was excluded from continuing further in the recruitment process after she was found to have failed a written test. In Order No. 117 (NY/2019), the Tribunal found that

to exclude the Applicant from further consideration has immediate effects in the

applicant who then must show through clear and convincing evidence that he or she was denied a fair chance of selection (*Rolland*, para. 26).

23. The Applicant argues, in essence, that the Administration acted unreasonably in providing too short a deadline for shortlisted candidates to confirm their interest in participating further in the recruitment process. While she received the invitation email on Friday, 1 November 2019 at 1:44 a.m., the Applicant only read it on Monday, 4 November 2019 in the morning.

24. The Applicant argues that the short deadline allowed for candidates to confirm their participation in the written test  
in the Hirin

25. Section 7.5 of ST/AI/2010/3 provides that shortlisted candidates shall be assessed to determine whether they meet the technical requirements and competencies of the job opening through a competency-based interview and/or other appropriate evaluation mechanisms, such as written tests. Chapter 9 of the Manual for the Recruiter

When inviting the applicants to participate in an assessment process, the Hiring Manager informs them in advance (at least 5 working days) of the anticipated date of the assessment exercises

26. The 1 November 2019 email invited all candidates, including the Applicant, to participate in a written assessment on 7 November 2019 and required them to confirm their participation within 24 hours. The Tribunal finds that this invitation respected the applicable provisions, including the guidance provided by the Manual of allowing a five-day advance notice for written tests. Indeed, the 1 November 2019 email informed the candidates that the written assessment would take place on 7 November 2019, that is, more than five days thereafter.

27. The Applicant deems it unreasonable for the Administration to impose a 24-hour deadline to confirm participation in the written test. The Tribunal finds this argument unconvincing. Quite to the contrary, the Tribunal finds that it can reasonably be expected from a candidate to a job opening to diligently monitor the email provided

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