



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

Case No. 2010-096

Antaki

**(Respondent on Appeal and Appellant
on Cross-Appeal/Applicant)**

v.

Secretary-General of the United Nations

7. On 12 July 2007, two P-5 vacancies were issued on Galaxy. On 24 October 2007, Antaki was interviewed by a panel of five members, including the Programme Case Officer (PCO) who was the chief of the AIS. Each interviewer took notes and scored the interviewed candidates, using tables prepared by the PCO. Following the evaluation by the interview panel members, Antaki was ranked fifth out of seven candidates.

8. During the proceedings before the UNDT, the PCO testified that after the interviews, she created a narrative which reflected the handwritten notes of the interview panel members and the scores given to the candidates. The PCO noted that she “convened a meeting to ascertain that the narrative fairly reflected what the members had written, having first provided them with the notes to enable the comparison to be made”. She created a descriptive narrative of the interview, an interview matrix, a promotion criteria matrix, and an overall matrix which she provided, along with several other documents relating to the selection and interview process, for review to the Under-Secretary-General for DGACM (USG/DGACM).

9. By note to the USG/DGACM dated 29 November 2007, the PCO and the Assistant Secretary-General, DGACM, specifically recommended two candidates for the two P-5 interpreter posts. Two further candidates were placed on a “recommended list” or roster. Antaki was not selected for either of the posts nor was she placed on the roster. On 26 December 2007, the Central Review Board (CRB) endorsed the recommendation and the recommended candidates were selected. In January 2008, a third P-5 post was advertised and awarded to one of the candidates listed on the roster. Antaki was notified later that month that she had not been selected for that post, either.

10oesws, smmedmin656criptivrocess, candidates o

relevant period and the relevance of the e-PAS in the selection process, it found that the decision at the outset to exclude e-PAS evaluations was not unreasonable. It however found that there was an “inappropriate imprecision and confusion of the matrices” which contributed to Antaki’s frustration and stress and justified an award of compensation. The UNDT found that Antaki failed to achieve a promotion to which she legitimately aspired and a fundamental requirement of good faith obliged the Administration to ensure that the outcome demonstrably complied with all the instrumental requirements, especially in light of the unfortunate mismanagement of prior attempts, which had directly involved Antaki. The UNDT noted that “[t]he transparency and logic of the process should have prevented this from occurring”. It held that the shortcomings in the process had not affected the propriety of the outcome and that therefore compensation should be nominal, but sufficient to reflect the real, and not trivial, interest of Antaki in compliance with her contractual rights. It accordingly awarded Antaki the sum of USD1,000.

12. On 10 May 2010, Antaki submitted an application for revision of judgment to the UNDT, which the UNDT dismissed by Order No. 119 (NY/2010).

13. On 24 May 2010, the Secretary-General filed an appeal against Judgment No. UNDT/2010/059. The appeal was assigned case no. 2010-096. On 27 August 2010, Antaki filed her answer together with a cross-appeal.¹ The Secretary-General filed his

Submissions

Secretary-General's Appeal

15. The Secretary-General contends that the UNDT erred in law in determining that there were any shortcomings in the selection process that gave rise to an entitlement to compensation. The Secretary-General further submits that the UNDT erred in law and exceeded its competence in awarding compensation for procedural non-compliance where the staff member has shown no demonstrable loss. In the Secretary-General's view, such compensation can only be characterized as punitive damages. The Secretary-General requests that the Appeals Tribunal reverse the UNDT's order to pay compensation.

Antaki's Answer and Cross-Appeal

16. Antaki requests that the Appeals Tribunal dismiss the Secretary-General's appeal. She submits that the UNDT did not err in recognizing her right to compensation for the frustration and distress suffered throughout the selection process and did not award punitive damages. In her cross-appeal, she contests the amount of compensation awarded by the UNDT and requests that the

THE UNITED NATIONS APPEALS TRIBUNAL

THE UNITED N

Judgment

28. The appeal is allowed. The decision of the Dispute Tribunal in relation to the award of compensation is set aside. The cross-appeal is dismissed.

Dated this 29th day of October 2010 in New York, United States.

Original and authoritative version: English

(Signed)

Judge Adinyira, Presiding

(Signed)

Judge Courtial

(Signed)

Judge Simón

Entered in the Register on this 29th day of December 2010 in New York, United States.

(Signed)

Weicheng Lin, Registrar