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Counsel for Mr. Ross: Self-represented

Counsel for Secretary-General: Francisca Lagos Pola

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As Senior Protection Officer in Kassala, I have previously coordinated all protection and assistance interventions of UNHCR, implementing partners and other UN agencies for more than 85,000 persons of concern in Eastern Sudan. I therefore believe I would be well suited for the position of Senior inter-Agency Coordination Officer. In addition I have previously worked with [the International Organization for

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were followed, and ii) whether the staff member was given fair and adequate consideration.³ There is a presumption that official acts have been regularly performed.⁴

- 16. The selection process for the Post was governed by UNHCR's Revised Policy and Procedures on Assignments (UNHCR/HCP/2015/2). The process was followed. The selection of the selected candidate was reasonable, objective and supported by the record.
- 17. Mr. Ross did not provide clear and convincing evidence to rebut the presumption of regularity. The UNDT correctly concluded that Mr. Ross had been given full and fair consideration and held that there was no evidence that the decision was manifestly wrong, arbitrary, or otherwise unreasonable.
- 18. Mr. Ross has not established any errors by UNDT warranting a reversal. He reiterates his arguments made and already considered by UNDT.
- 19. Mr. Ross argues the UNDT erred in law in concluding he had been given full and fair consideration because he "did not possess the necessary inter-agency coordination experience". Mr. Ross also argues that "he was excluded from the selection process on the basis of erroneous considerations by the manager and DHRM". He further argues the UNDT also erred in fact when it concluded that he had not indicated in his motivation letter that he had the necessary inter-agency experience. He asserts the manager and the DHRM did not read his letter or thoroughly review his candidature. The Secretary-General argues these are factually inaccurate assertions. And as noted they were already put forth to, and considered by, the UNDT.
- 20. There is no obligation in the UNHCR policy for the hiring manager to check with Mr. Ross or his former supervisors to ascertain the extent of his inter-agency experience and thus this is not acting in bad faith. The onus of showing one has the requisite credentials for the position is on the candidate. There is thus no evidence that UNHCR acted in bad faith.

N , Judgment No. 2015-UNAT-527,
N , Judgment No. 2012-UNAT-265,
N , Judgment No. 2012-UNAT-200,
, Judgment No. 2011-UNAT-110, para. 23.
, Judgment No. 2011-UNAT-122, para. 26.

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- 21. Mr. Ross fails to show the UNDT committed an error of procedure when it did not allow him to submit an affidavit from his former supervisor addressing his inter-agency experience as he did not request to submit such evidence before the UNDT.
- 22. Mr. Ross' request to submit additional evidence before the UNAT should be denied as it has not been introduced in accordance with Article 2(5) of the Appeals Tribunal's Statute. Furthermore, the views of Mr. Ross' former supervisors are not decisive for the consideration of his candidacy as they were not the decision-maker.

Considerations

Preliminary issues

23. The request of the Secretary-General not to admit the additional document annexed to Mr. Ross' appeal (Affidavit of his former supervisor in Sudan) must be granted. This document was not filed with the UNDT and Mr. Ross has not made out any case in terms of Article 2(5) of the Appeals Tribunal Statute that exceptional circumstances justify the receipt of the additional evidence in the interest of justice and the efficient and expeditious resolution of the proceedings. Moreover, the affidavit of Mr.

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32. Regarding the background for the role of the Senior Inter-Agency Coordination Officer, under the heading, "Organization context", the political and refugee situation in Burundi as per 31 October 2015 was explained and the "Regional Refugee model" was presented. It was also indicated that "[t]he specialist areas span the following: refugee status determination, registration, geographic information systems, resettlement, women and children, public h

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41. Based on these findings, the UNDT proceeded to the conclusion, challenged by Mr. Ross on appeal, that the impugned administrative decision was lawful. Contrary to Mr. Ross' contentions, we do not find any reason to differ from that conclusion. In particular, given the factual circumstances of the case at hand, as correctly and thoroughly established by the UNDT, the Appeals Tribunal holds that the facts underpinning the administrative decision to not select Mr. Ross for the Post show that his candidature was given full and fair consideration, therefore putting in motion its presumption of regularity. Moreover, a review of the same evidence before the Dispute Tribunal shows that Mr. Ross did not meet his burden to demonstrate, by clear and convincing evidence, that the challenged administrative decision that he was not qualified for the Post, due to him not having the required inter-agency coordination experienc

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Mr. Ross' candidacy was based on the information he had provided when applying to the Post and that his candidature received full and fair consideration by the Administration.

- 44. The Appeals Tribunal emphasizes that the appeals procedure is of a corrective nature and, thus, is not an opportunity for a dissatisfied party to reargue his or her case. A party cannot merely repeat on appeal arguments that did not succeed before the lower court. The function of the Appeals Tribunal is to determine if the Dispute Tribunal made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction, as prescribed in Article 2(1) of the Appeals Tribunal Statute. An appellant has the burden of satisfying the Appeals Tribunal that the judgment he or she seeks to challenge is defective. It follows that an appellant must identify the alleged defects in the impugned judgment and state the grounds relied upon in asserting that the judgment is defective.
- 45. It is obvious that Mr. Ross was not satisfied with the UNDT's decision. He has failed, however, to demonstrate any procedural or substantive error in the UNDT's Judgment in that the challenged administrative decision to not select him for the Post was lawful. Mr. Ross merely voices his disagreement with the UNDT's findings and repeats his submissions to the Appeals Tribunal. He has not met the burden of proof for demonstrating an error in the impugned Judgment such as to warrant its reversal.
- 46. Accordingly, the appeal fails.

N, Judgment No. 2018-UNAT-870, para. 30, citing

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47.	The appeal is dismissed and Judgment No. UNDT/2019/173 is hereby affirmed.
Origin	al and Authoritative Version: English
Dated	this 30 th day of October 2020.