



## **Introduction**

1. The Applicant, a Security Officer at the United Nations Mission in South Sudan ( UNMISS ) holding a continuing appointment at the FS-5 level, challenges

## **Factual and procedural background**

2. On 10 June 2020, the Applicant sat for the Security Affairs Exam as part of the YPP process. The exam comprised six parts: five of which had multiple choice questions United Nations Core Values; Summary & Conclusion; Security Technical Knowledge; Situational Judgment Part; Security Reasoning Part; and the sixth part which required drafting - Security Report Drafting Part.

3. On 11 February 2021, the Applicant received notification that he had not attained the passing score in the written test that would enable him to proceed to the next phase of the selection process.

4. On 12 February 2021, the Applicant sought clarification on the breakdown of his results, the YPP Team explained that some of the questions had been deleted after marking the exams and as such that his remaining answers and scores did not

5. On 17 February 2021, the YPP Team provided the Applicant with the following explanation:

We are happy to offer you some further explanation of the process though, as we do understand the confusion as to why your score on the Summary & Conclusion exam part is not a whole number score. The reason for this is that every question included in the test may not necessarily be included in the final scoring. We mention in the

ysis, a question may be removed from the final scoring if we find that it statistically advantages or disadvantages certain groups of applicants (i.e., causes a disparate impact based on gender, internal

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## Exam

12. The Respondent filed his reply on 27 September 2021.

principal contention is that the impugned decision is lawful. The Applicant received full and fair consideration in accordance with ST/AI/2012/2/Rev.1 (the Young Professionals Programme)

13. On 3 August 2022, the Tribunal issued Order No. 104 (NBI/2022) to inform the parties of its decision to adjudicate this matter on the basis of their written submissions. To that end, the parties were invited to file their closing submissions simultaneously on 16 August 2022.

14. The Applicant and Respondent filed their respective closing submissions as directed.

### **Parties' submissions**

15. The Applicant alleges that his candidature was not given full and fair consideration. ST/AI/2012/2/Rev.1 is clear. Only changes relating to the format can be made to the exam, and even then, only prior to the exam being administered. It does not envision deletion of any questions, let alone once the candidates have sat for the exam and after the papers are marked. The YPP Team/Human Resources engaged in practices that are not envisioned or permitted within ST/AI/2012/2/Rev.1.

16. Section 5.4 of the ST/AI stipulates that the Specialised Board of Examiners can only modify the *format* of the written and oral exam, so as to test certain areas. Such changes shall be communicated to *all* examinees *prior* to the actual exam. The Board does not have the authority to delete any questions, let alone *after* the exam has been done and the papers marked.

17. The Applicant submits that the (as described to the Applicant on 17 February 2021) is problematic on several levels. It is also potentially discriminatory and will result in the outcome of the



24. There were no procedural irregularities that negatively impacted on the  
There was  
no change of format in the administration of the examination as the Applicant  
alleges.

**Considerations**

25. In *Duncan* UNDT/2019/078, the Tribunal held that in matters of staff selection, it is the role of the Dispute Tribunal to review the challenged selection process to determine whether the applicable regulations and rules have been applied and whether a candidate has received full and fair consideration, discrimination and bias are absent, proper procedures have been followed, and all relevant material has been taken into consideration.



ground for deletion was related to avoiding discrimination between the different groups of people attending the test, which implies an identification of the candidates to know their gender, nationality, race, provenience from developed or not developed countries, the fact they were internal or external, which inevitably impacted the anonymity of the exams.

32. The claim is well founded.

33. On the first point, the Tribunal recalls that ST/AI/2012/2/Rev.1 is clear that only changes relating to the format can be made to the exam, and even then, only prior to the exam being administered. It does not envision deletion of any questions, let alone once the candidates have sat for the exam and after the papers are marked.

5.4 The written and oral examinations shall normally follow a similar format in all job families. However, the *Specialized Boards of Examiners* for particular job families shall have the right to modify the *format* of both the written and oral examinations in order to test knowledge, skills and attributes of specific relevance to that area of work. Any change in the format *shall be communicated to*



35. More importantly, from section 5.8, none of the Specialised Board of Examiners

and oral examination and there too these format changes are permitted before the test/interview are administered (section 5.4).

40. The Tribunal notes that in this case the deletions of questions after the tests were administered resulted not simply in a deletion of questions but also a deletion of answers! It was a substantive change, which impacted the outcome of the results and interfered unduly with the selection process.

41. On the second point raised by the Administration, the Applicant convincingly objected that what the Administration call many levels. It is discriminatory and has the effect of illegally tampering/interfering with the outcome of the examinations. I explanation shows that the practice is not taken in any anonymous manner as the factors they consider inevitably will require them to consider identifying particulars of a group of people e.g., one gender vs.





58. While the Respo the case that only four questions  
were deleted from the multiple-choice perusal of  
annex R/7 to the reply shows that certain questions from Technical

grade (67.5%) and why a whole point percentage was not determined. The Respondent has also not presented

73. Considering the nature of the dispute, the length of service and the chances of success in the selection process, the Tribunal sets an amount of six months net-base salary at the FS-