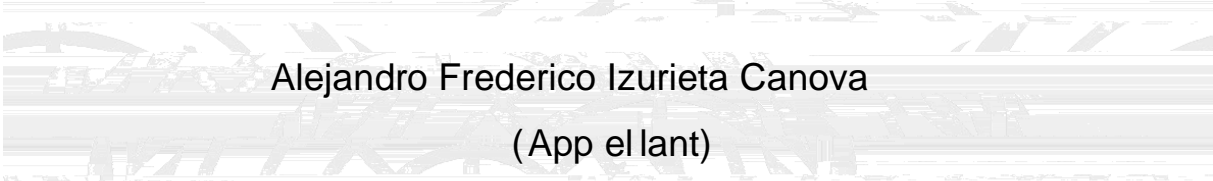




UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2022-UNAT-1252



Alejandro Frederico Izurieta Canova
(Appellant)

v.

Secretary -General of the United Nations
(Respondent)

JUDGMENT

Before:	Judge John Raymond Murphy, Presiding Judge Sabine Knierim Judge Martha Halfeld
Case No:	2021-1584
Date of Decision:	1 July 2022
Date of Publication:	12 August 2022
Registrar:	Weicheng Lin

Counsel for Appellant:	Anca Apetria
Counsel for Respondent	Francisca Lagos Pola

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Judgment No. 202

16. He maintains that the cancellation was of a regular and lawful recruitment process that had spanned more than one and half years and for which he was a recommended candidate

and the percentage of female representation in UNCTAD are not valid reasons to cancel a selection process that has been properly conducted.

21. ~~The UNCTAD also filed its 15/15/041 4571.261 0 a22 (Sb.6 (i2c)0.5 4i5)-ut.9 (e8)12.1 (1 Tf -0.004 T04~~

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37. The motive for the cancellation decision was to advance the affirmative action policy and the requirements of geographical representation. The Organization is the custodian of human rights internationally and is obligated to advance the cause of gender equity; and, given its structural character, it is also required to ensure that its staff complement reflects and represents the different regions of the world.

38. The evidence indisputably reveals that the first recruitment exercise did not yield a satisfactory result in achieving those imperatives. The legitimate purposes of the gender and regional policies were not realized. Thus, in his discretion, the Secretary-General of UNCTAD opted to start the process again in the hope that a second round would cast the net wider and produce a more representative pool of candidates to be considered for selection. Hence, the cancellation decision aimed at achieving a legitimate policy and was rationally connected to that purpose.

39. Mr. Izurieta Canova's claim of discrimination is formalistic and is premised on a misunderstanding of the precepts of substantive equality. The differentiation in this instance was aimed at redressing past patterns of disadvantage (where males from certain geographical regions were previously favored). To achieve the objectives of gender fairness and regional representation, and to harmonize the interests of the people of the Member States for the common good, it is essential to regulate and it is impossible to do so without differentiation and without classifications that treat people differently. As said, differential treatment which pursues a legitimate policy is not unfair discrimination if there is a rational

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Judgment

44. The appeal is dismissed and Judgment No. UNDT/2021/074 is affirmed.

Original and Authoritative Version: English

Decision dated this 1st