

UNDT/2009/039, Mebtouche

UNAT Held or UNDT Pronouncements

It is for the Administration to establish a list of promotions based on regulations put in place in order to reconcile the two imperatives for advancement based on merit and that of gender balance and, if necessary, by introducing quotas. Failing to have such regulations in place, the Administration must apply the regulation in force.

Paragraph 5 of article 10 of the UNDT's Statutes imposes on the judge, in certain cases to set compensation that the Respondent may choose to pay in lieu of the annulment of the contested administrative decision. The judge takes into account the material damage of the illegal decision that was made and fixes the amount to be paid at CHF 9000. The staff whose refusal for promotion has been rescinded by the Judge can only receive compensation for moral damage if he had a serious chance to be promoted if the Administration had followed due process, which is not the case at hand. Contested decision rescinded. The judge fixed an amount of compensation corresponding to paragraph 5 of article 10 of the UNDT's Statutes. All other claims were rejected.

Decision Contested or Judgment/Order Appealed

The Applicant contests the UNHCR High Commissioner's refusal to promote him to D-1. The Commission in charge of the recommendations for promotions to the High Commissioner applied a system of quotas for men/women and not the regulations in force.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Mebtouche

Entity

UNHCR

Case Number(s)

UNDT/GVA/2009/020

Tribunal

UNDT

Registry

Geneva

Date of Judgement

15 Oct 2009

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Pecuniary (material) damages

Staff selection (non-selection/non-promotion)

Applicable Law

UNAT Statute

- Article 10.5