

# UNDT/2009/048, Tsoneva

## UNAT Held or UNDT Pronouncements

The judge makes his decision on the basis of all the documents in the file to the extent that all the parties are aware of them and have been able to discuss them. He must not exclude a document produced by a party unless it is submitted after the expiry of a time limit which he himself has fixed or which is imposed on him by the texts and only if this document is not likely to modify the outcome of the dispute, a hypothesis which requires the judge to grant the parties additional time to ensure compliance with the adversarial proceedings. The regulations in force for establishing the list of promotions at UNHCR at the 2007 session respect the principle of priority given to competence as set out in Article 101 of the United Nations Charter and the Staff Rules. The decision to put into effect a new methodological approach for establishing the list of officials to be recommended for promotion did not have to be submitted to the UNHCR Joint Advisory Committee as this approach did not modify the existing regulations on criteria for the promotion. When a staff member has been appointed by the High Commissioner to a joint committee on the proposal of a body representing the staff, the fact that this body deprives him of his confidence does not have the effect of preventing him from legally sitting on the board. the Commission. A conflict of interest situation does not arise from the mere fact that this official, appointed to represent the staff, is appointed to a post of deputy to the UNHCR Inspector General. The High Commissioner is not bound to follow the recommendations of the Appointments, Promotion, and Postings Commission, but he cannot grant a promotion without the situation of the eligible official having been examined by the Commission. In order to obtain from the Tribunal the annulment of a decision refusing promotion, the complainant must establish either that the decision was taken following an irregular procedure or that, without the errors made by the Commission in the examination of her professional career, she would have had a real chance of obtaining a promotion. As soon as the regulations set October as the date of the promotion session, the administration is required to examine the situation of eligible officials given their career as of October 1, even if the session, for various reasons is held after the month of October. The application is rejected

## Decision Contested or Judgment/Order Appealed

The Applicant contests HCR High Commissioner's refusal to promote him to P-4.

## Legal Principle(s)

N/A

## Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Tsoneva

Entity

UNHCR

Case Number(s)

UNDT/GVA/2009/008

Tribunal

UNDT

Registry

Geneva

Date of Judgement

15 Oct 2009

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Staff selection (non-selection/non-promotion)

Applicable Law

UN Charter

- Article 101