

# UNDT/2010/120, Ostensson

## UNAT Held or UNDT Pronouncements

Section 5.5 of ST/SGB/2002/6 does not give the right to request the removal of a candidate's name from the list of recommended candidates as an alternative to a request for clarification. Therefore, the selection process was procedurally flawed which gives a right to compensation. It is not the Tribunal's competence to substitute the Administration's decision to select between suitable candidates.

## Decision Contested or Judgment/Order Appealed

In 2007, the (now retired) applicant, a permanent staff member at the P-5 level, applied for a D-1 position. After the interview, the applicant, together with one other candidate, was included in the list of recommended candidates, which was submitted to the Central Review Body (CRB). The CRB found that the applicant did not fully meet all the established evaluation criteria. The CRB then requested that either the name of the applicant be removed from the list or clarifications be provided as to why he was considered as meeting all evaluation criteria. The PCO removed the applicant's name from the list of recommended candidates, and the remaining other candidate was selected. In his application, the applicant holds the view that he was the only qualified candidate.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Rescission of the contested decision, as an alternative that the applicant be paid half of the difference between P-5 and D-1 net salary until date of retirement (10.5 (a) statute). Approximately 6 months' salary as compensation (10.5 (b) statute).

Full judgment

[Full judgment](#)

Applicants/Appellants

Ostensson

Entity

UNCTAD

Case Number(s)

UNDT/GVA/2010/053

Tribunal

UNDT

Registry

Geneva

Date of Judgement

11 Jul 2010

Duty Judge

Judge Laker

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Due process

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Former Staff Rules

- Rule 104.14

UNDT Statute

- Article 2.1

Related Judgments and Orders

UNDT/2009/084

UNDT/2009/028

UNDT/2010/009

UNDT/2010/065

UNDT/2010/070