

# **UNDT/2010/188, Bouchardy**

## UNAT Held or UNDT Pronouncements

As regards promotions, considering the discretionary nature of these decisions, the Tribunal's role is only to review the legality of the procedure followed and to examine whether there have been any errors of fact in the assessment of the staff member's career. Under the principle that similar acts require similar rules, the decision that modifies the original provision governing the promotion procedure in UNHCR must be taken through the same procedure followed to adopt the original provision. The High Commissioner was not bound to follow the APPB recommendations. He was able to legally promote staff members who were not recommended by the APPB as far as they were eligible. The lack of transparency alleged by the applicant is a general argument which, to be retained, must be based on particular facts showing that the legal instruments applicable to the promotion of staff were not followed. It is unavoidable that the assessment of the staff's competence be subjective to some extent, however this cannot be considered as an irregularity.

## Decision Contested or Judgment/Order Appealed

The applicant, a UNHCR staff member, contests the decision of the High Commissioner not to promote him to the P-5 level in the 2008 annual promotion session.

## Legal Principle(s)

N/A

## Outcome

Dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Bouchardy

## Entity

UNHCR

## Case Number(s)

UNDT/GVA/2010/061

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

17 Oct 2010

## Duty Judge

Judge Cousin

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

Performance management

Performance evaluation

Staff selection (non-selection/non-promotion)

## Applicable Law

Former Staff Regulations

- Regulation 4.2
- Regulation 8.2

Former Staff Rules

Other UN issuances (guidelines, policies etc.)

- UNHCR Appointments, Postings, Promotion Board (APPB) Procedural Guidelines