

UNDT/2010/211, Applicant

UNAT Held or UNDT Pronouncements

The Tribunal finds that both appraisal processes are tainted with procedural flaws. The first performance appraisal did not result in new ratings being given by the rebuttal panel. The second performance appraisal was based in part on the earlier assessment and it did not give sufficient time to the Applicant to improve his performance. Though the Administration is not bound to apply administrative instruction ST/AI/2002/3 to evaluate the performance of 300 series staff members, once it has decided to apply the administrative instruction, the latter must be fully complied with. In the present case, the rebuttal panel, while finding that the ratings should not be maintained, failed to substitute its own ratings for those of the Applicant's supervisor. The Tribunal considers that, had the performance appraisals been conducted lawfully, the Applicant would have had a serious chance to have his appointment extended. He is thus entitled to compensation for the loss of that chance. In addition, he is entitled to compensation for the moral injury he suffered owing to the fact that his professional reputation was damaged.

Decision Contested or Judgment/Order Appealed

The Applicant, a former appointment of limited duration (300 series) holder, contests the Secretary-General's decision of 29 June 2009 to pay him an indemnity equal to two months net base salary only, for the material and moral damages suffered as the result of the unlawfulness of the decision not to extend his appointment after its expiration date

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

The Tribunal orders that the Applicant be awarded compensation amounting to six months of his net base salary, minus the two months already awarded by the Secretary-General.

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UNIIIC

Case Number(s)

UNDT/GVA/2009/068

Tribunal

UNDT

Registry

Geneva

Date of Judgement

6 Dec 2010

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Appointment of Limited Duration

Compensation

Loss of chance

Non-renewal

Arbitrary or improper motive

Performance management

Performance evaluation

Applicable Law

Administrative Instructions

- ST/AI/2002/3

Former Staff Rules

- Rule 304.4

Related Judgments and Orders

UNDT/2010/150

UNDT/2010/133