

UNDT/2011/036, Edelenbos

UNAT Held or UNDT Pronouncements

30 v. 60-day mark candidates: It is clear from the provisions of ST/AI/2006/3—in particular sections 4.5, 7.1 and 9.2, as well as paragraph 3 of annex I and paragraph 4 of annex III—that applications of candidates eligible to be considered at the 30-day mark must be considered before those of candidates eligible to be considered at the 60-day mark. 60-day mark candidates may only be considered if there are no qualified 30-day mark candidates. Compensation: In setting the appropriate amount of compensation, the Tribunal must assess the chance that the Applicant would have been promoted had the correct procedure been followed. In the present case, the Applicant had a very serious chance of being promoted. The Tribunal assessed the difference between her net take-home pay at the P-4 level and that which she would have received at the P-5 level between May 2008, when she could have been promoted, and August 2010, when she was eventually promoted, i.e., approximately CHF10,950. The Tribunal also found that her pension benefits had not been affected in view of the applicable UNJSPF regulations and rules. The Tribunal then set a lump sum to be awarded to the Applicant for material damage, i.e., loss of a serious chance of receiving the above-mentioned amount, at CHF9,000.

Decision Contested or Judgment/Order Appealed

The Applicant, who was then a P-4 staff member, contested the decision to select another candidate for a P-5 post for which she had applied as a 30-day mark candidate. In the selection process, 30 and 60-day mark candidates were considered at the same time. The Applicant and a 60-day mark candidate were recommended for the post and the latter was appointed while the Applicant was put on the roster.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Outcome Extra Text

Compensation was set at CHF9,000 for material damage and CHF 3,000 for moral damage.

Full judgment

[Full judgment](#)

Applicants/Appellants

Edelenbos

Entity

UNOG

Case Number(s)

UNDT/GVA/2010/056

Tribunal

UNDT

Registry

Geneva

Date of Judgement

22 Feb 2011

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Pension (see also, UNJSPF)

Compensation

Loss of chance

Non-pecuniary (moral) damages

Pecuniary (material) damages

Staff selection (non-selection/non-promotion)

Full and fair consideration

Selection decision

Applicable Law

Administrative Instructions

- ST/AI/2006/3

Related Judgments and Orders

2010-UNAT-044

2010-UNAT-052

UNDT/2010/153

UNDT/2010/154