

UNDT/2012/164, Andersson

UNAT Held or UNDT Pronouncements

Non-promotion: As regards promotions and considering the discretionary nature of these decisions, the Tribunal's role is only to review the legality of the procedure followed in line with the procedural and legal framework of the 2009 UNHCR annual promotions session, its methodology and to examine whether an irregularity vitiated a significant chance for promotion. The Applicant was not promoted due to a shifting of his candidature from one group to another, based on criteria which were not stipulated in the rules and at a stage in the course of the process of examination, which was in breach of the Organization's own procedural rules. Hence, a procedural irregularity, which in the case at hand impacted the Applicant's status as well as his chances of promotion, could be asserted. The Tribunal rescinded the contested decision and awarded the sum of CHF 10,000 as the amount of compensation pursuant to article 10.5 of its Statute and granted compensation for moral damage, in the amount of CHF 4,000, because a procedural irregularity had an immediate impact on the Applicant's status and affected his chances for promotion.

Decision Contested or Judgment/Order Appealed

The Applicant contests the decision of the United Nations High Commissioner for refugees not to promote him to the P-3 level in the 2009 annual promotions session. The UNDT found that the contested decision was unlawful.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Andersson

Entity

UNHCR

Case Number(s)

UNDT/GVA/2011/91

Tribunal

UNDT

Registry

Geneva

Date of Judgement

23 Dec 2012

Duty Judge

Judge Cousin

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Loss of chance

Non-pecuniary (moral) damages

Pecuniary (material) damages

Management Evaluation

Performance management

Performance evaluation

Staff selection (non-selection/non-promotion)

Applicable Law

Other UN issuances (guidelines, policies etc.)

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

UNDT Statute

- Article 10.5

Related Judgments and Orders

2011-UNAT-172

2011-UNAT-174

2011-UNAT-175