

UNDT/2014/114, Tredici, Gueben, Lamb, Lobwein, Matar, Pastore Stocchi, Rexhepi, and Vano

UNAT Held or UNDT Pronouncements

The Tribunal finds that the pertinent facts and the legal issues in the present cases are on all fours as those of the ICTY cases. As both parties have accepted the ratio decidendi of the decisions by the UNAT in the ICTY cases, the Tribunal adopts the Appeals Tribunal's findings in Malmström 2013-UNAT-357 and remands the UNAKRT conversion exercise to the ASG/OHRM for retroactive consideration of the suitability of each applicant within 90 days of the date of publication of this judgment in accordance with the guidelines set out by the Appeals Tribunal in the matter of Malmström. Taking into consideration the similarities between the facts in the ICTY case and those from the UNAKRT cases, and in accordance with Malmström and Gehr, the Tribunal finds it appropriate to award each of the Applicants the USD equivalent of EUR3,000 for the breach of their due process rights to be properly, fairly and individually considered for permanent appointment.

Decision Contested or Judgment/Order Appealed

The Applicants, eight staff members of the United Nations Assistance to the Khmer Rouge Trials ("UNAKRT"), filed eight individual applications contesting the decision denying them conversion to permanent appointment on grounds of operational reasons as UNAKRT is a downsizing entity.

Legal Principle(s)

The appropriate manner of compliance with the Appeal Tribunal's Judgment is to fully respect the judgment in all aspects of its pronouncement.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Tredici, Gueben, Lamb, Lobwein, Matar, Pastore Stocchi, Rexhepi, and Vano

Entity

UNAKRT

Case Number(s)

UNDT/NY/2012/44

UNDT/NY/2012/45

UNDT/NY/2012/46

UNDT/NY/2012/47

UNDT/NY/2012/48

UNDT/NY/2012/49

UNDT/NY/2012/50

UNDT/NY/2012/51

Tribunal

UNDT

Registry

New York

Date of Judgement

26 Aug 2014

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Appointment (type)

Permanent appointment

Staff selection (non-selection/non-promotion)

Full and fair consideration

Related Judgments and Orders

UNDT/2012/118

2010-UNAT-042

2012-UNAT-204

2012-UNAT-253

2013-UNAT-290

2013-UNAT-357

2013-UNAT-358

2013-UNAT-359

2013-UNAT-360

2013-UNAT-372