

2010-UNAT-051, Ilic

UNAT Held or UNDT Pronouncements

UNAT preliminarily held that the appeal was receivable, noting that the situation was quite exceptional and a necessity to consider the disposition of facts. UNAT rejected the request for discovery of evidence and an oral hearing, holding that there were no exceptional circumstances justifying the exercise of its discretion in granting such requests. On the merits, UNAT held that the minutes of the recourse session held by the Appointments, Postings and Promotions Board clearly showed that the experience and achievements of the Appellant were properly considered at the 2007 Promotion Session. UNAT held that UNDT's conclusion on this issue had no errors and that the Appellant, who bore the burden of proof, had failed to discharge it. UNAT agreed with UNDT that the argument that UNHCR's promotion system lacked transparency could not be the basis of the UNDT's decision to rescind a decision to deny a promotion. UNAT held that the Appellant had failed to establish any error by UNDT on questions of fact or law. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicant contested the decision to deny her a promotion to the P-4 level during the promotion session conducted by the Office of the United Nations High Commissioner for Refugees (UNHCR) in 2007. UNDT rendered judgment No. UNDT/2009/046, rejecting the application.

Legal Principle(s)

When UNAT hears an appeal, it does not simply re-try the case. The function of UNAT is to determine if the Dispute Tribunal has made errors of fact or law, exceeded its jurisdiction or competence, or failed to exercise its jurisdiction, as prescribed in Article 2. 1 of the UNAT Statute. The Appellant has the burden of

satisfying UNAT that the judgment rendered by the Dispute Tribunal is defective. It follows that the Appellant must identify the alleged defects in the judgment and state the grounds relied upon in asserting that the judgment is defective. It is not sufficient for an Appellant to state that he or she disagrees with the outcome of the case or repeat the arguments submitted before the Dispute Tribunal.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ilic

Entity

UNHCR

Case Number(s)

2010-054

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Jul 2010

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Burden of proof

Non-disciplinary

Jurisdiction / receivability (UNAT)

Appeal

Staff selection (non-selection/non-promotion)

Full and fair consideration

Applicable Law

Administrative Instructions

- ST/AI/2007/1

UNAT RoP

- Article 29
- Article 7.1

UNAT Statute

- Article 2.5
- Article 7.1
- Article 8.1

Related Judgments and Orders

UNDT/2009/046