

2010-UNAT-052, Ardisson

UNAT Held or UNDT Pronouncements

UNAT held that the appeal was not filed untimely and was, therefore, receivable. UNAT held that, whatever the gravity of the irregularity committed by the Administration and the number of points obtained by the Applicant in the 2007 promotion session, UNDT did not commit an error in providing that the High Commissioner could decide to pay compensation rather than execute the rescission order. UNAT held that UNDT, in setting the amount of compensation at 8,000 Swiss francs, did not make a manifest error. UNAT held, concerning the conclusion that compensation should be paid for moral damages, that such a request could not be made for the first time on appeal. UNAT dismissed the appeal and affirmed the UNDT judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the decision of the United Nations High Commissioner for Refugees not to promote him to the P-5 level. UNDT rescinded the decision to refuse the Applicant promotion to the P-5 level and, alternatively, ordered compensation in lieu of executing the rescission order.

Legal Principle(s)

Compensation shall not normally exceed the equivalent of two years' net base salary of the Applicant. In determining compensation, UNDT should bear in mind two considerations. The first is the nature of the irregularity that led to the rescission of the contested administrative decision. The second is an assessment of the staff member's genuine prospects for promotion if the procedure had been regular.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ardisson

Entity

UNHCR

Case Number(s)

2010-055

Tribunal

UNAT

Registry

New York

Date of Judgement

1 Jul 2010

President Judge

Judge Courtial

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

In-lieu compensation

Staff selection (non-selection/non-promotion)

Applicable Law

UNDT Statute

- Article 10.5

Related Judgments and Orders

UNDT/2009/040