

# 2012-UNAT-245, Muratore

## UNAT Held or UNDT Pronouncements

UNAT held that the Appellant was asking for a review of his case in order to enhance the award and that he merely repeated arguments already considered and accepted by UNDT, which was not the purpose of an appeal. UNAT held that the Appellant had not met the burden of demonstrating that the UNDT had erred in assessing the damages. UNAT held that UNDT did not err on a question of fact resulting in a manifestly unreasonable decision on this point. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions not to select him for two posts, having applied for a few vacancies. UNDT concluded that a) there were no irregularities in the Yaoundé P-4 selection process; b) the selection process for the Geneva P-4 was flawed; c) the selection process for the Geneva P-3s contained substantive errors; and d) the selection process for the Yaoundé P-3 was flawed. As a result of its findings, UNDT awarded the Applicant seven months' net base salary at the rate in effect on the date of his separation from OHCHR, in addition to one month's net base salary already authorised by the Secretary-General. The Applicant appealed.

## Legal Principle(s)

UNAT generally defers to the trial court's discretion in the award of damages as there is no set way for the trial court to set damages for loss of chance of promotion. UNDT should be guided by two elements in the setting of damages for loss of chance of promotion: (1) the nature of the irregularity; and (2) the chance that the staff member would have had to be promoted or selected had the correct procedure been followed.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Muratore

## Entity

OHCHR

## Case Number(s)

2011-264

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

29 Jun 2012

## President Judge

Judge Adinyira

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Compensation

Pecuniary (material) damages

Staff selection (non-selection/non-promotion)

## Related Judgments and Orders

UNDT/2011/129

2011-UNAT-117

2012-UNAT-220

2011-UNAT-110