



### **Application**

1. In his appeal to the Geneva Joint Appeals Board, registered on 12 December 2008, the applicant requested it to recommend that:

- The decision of the United Nations High Commissioner for Refugees not to promote him to the D-1 level during the 2007 promotion session should be rescinded;
- He should be awarded compensation for harm arising from the unlawful decision and for the suffering caused to him.

2. In its resolution 63/253, the General Assembly decided that all cases pending before the Joint Appeals Board as at 1 July 2009 would be transferred to the United Nations Dispute Tribunal.

### **Applicant's submissions**

3. The applicant has been a staff member of the Office of the United Nations High Commissioner for Refugees (UNHCR) since March 1984 and was promoted to

promotions awarded outside the promotion session are incorrect, in that these promotions inevitably had a bearing on the promotions that took place the following year.

### **Respondent's observations**

8. UNHCR promotions are governed by the rules of procedure and the Procedural Guidelines of the Appointments, Postings and Promotions Board (APPB). On the recommendation of the Joint Appeals Board (JAB), the High Commissioner took steps to improve the promotion system for 2007. The Methodological Approach was put in place in order to ensure transparency in the working methods of APPB; it did not alter the existing rules in any way.

9. The Board did not introduce a gender quota system. Each candidate's situation was reviewed in three stages, and gender was not taken into consideration until the third stage. The Procedural Guidelines of the Board stipulate that due regard must be paid to enhancing gender parity. The UNHCR gender policy requires the Board to ensure that, at the grade levels where parity has not been achieved, half of all promotions will be rewarded to women. This is in line with the policy submitted to the United Nations General Assembly by the Secretary-General, which was referred to in the instruction issued by the High Commissioner in January 2007. In UNHCR, the percentage of women at levels P-5 to D-2 is far below that of men.

10. There were 32 promotions to the D-1 level. The difference in performance scores between men and women was negligible: the average for men was 28.36, and for women, 27.1. The applicant was ranked 70th out of 117 eligible staff members and received a performance score of 16.5

## **Judgment**

15. The Procedural Guidelines applicable to UNHCR staff, issued in 2003, provide that, after it has been determined that a staff member meets the minimum seniority requirements for promotion, recommendations from managers, performance appraisals and seniority will be taken into consideration. The Methodological Approach provides that the Board will review eligible candidates for promotion as per an initial ranked list based on the following four main criteria: performance appraisal reports; manager's recommendations; seniority in grade; and rotation history. The Board will then assess candidates on the basis of other criteria relating to efficiency and competency. Lastly, additional criteria, such as gender parity and geographical diversity, will be taken into account.

16. The Methodological Approach drawn up jointly by the Board and others was limited to setting out a new working method for determining the weight to be

18. In contesting the legality of the decision not to promote him during the 2007 promotion session, the applicant contends that the High Commissioner awarded

Article 3: The applicant's other requests are rejected.

Judge Jean-François Cousin

Dated this 16th day of October 2009

Entered in the Register this 16th day of October 2009

Víctor Rodríguez, Registrar, UNDT, Geneva