



## Introduction

1. By application submitted to the United Nations Dispute Tribunal (UNDT) in Geneva on 12 August 2009, which was completed on 14 September 2009, the Applicant, a staff member of the United Nations High Commissioner for refugees (UNHCR), contests the non-implementation of paragraph 48 a) of the Appointments, Postings and Promotion Board (APPB) Procedural Guidelines in her case.

## Facts

2. The Applicant, in her submission to the Tribunal, claimed to have sent a letter to the Secretary-General requesting management evaluation on 3 June 2009. In her application and in her request for management evaluation, the Applicant explained that she had not been considered as an eligible candidate for several posts because of the non-application of paragraph 48 a) of the APPB Procedural Guidelines. She alleged that “non implementing [this provision] implied a disproportionate concentration in a certain type of duty stations and non recognition of the massive rotation and exposure obtained”. She added that “non implementation of the indicated paragraph [had] consistently restricted her options” and that “fairness [had] not prevailed”.

3. By order dated 29 September 2009, the Tribunal requested the Applicant - *inter alia*

to posts in countries categories C, D, E and not to posts in countries category H, A and B”. She emphasized that “as a result of this decision [she had] been deprived of numerous opportunities ... to be considered for posts H, A and B”.

6. By letter dated 26 October 2009, the Tribunal sent to the Respondent a copy of the Applicant’s submission, including her e-mail dated 20 October 2009.

7. On 25 November 2009, the Tribunal received the Resp

11. Furthermore, the International Labour Organisation Administrative Tribunal in its jurisprudence stated that:

“As was held in Judgment 112 (in re Capron de Caprona), a plea to quash may be directed only against a decision, that is, 'an act deciding a question in a specific case'. And in Judgment 532 (in re Devisme) the Tribunal constructed the term to mean 'any action by an officer of the organization that has a legal effect'. In sum, a decision is any act by the defendant organisation that has an effect on an official's rights and obligations.” (Judgment No. 1203, Horsman, Koper, McNeill and Petitfils (1992)).

12. Although the above-mentioned jurisprudence does not bind the Tribunal, it may be used as a valuable reference in the present case.

13. The Tribunal in its recent jurisprudence has identified an administrative decision as “a unilateral act by the Administration of a conclusive and individual nature.” (Judgment UNDT/2009/077, Hocking, Jarvis, McIntyre



18. In the case at hand, the Tribunal, considering that the Applicant's submission was not clear enough, issued an order dated 29 September 2009 to request her inter alia to specify "in clear terms the administrative decision that she contest[ed]". By the same order, the parties were informed of the Tribunal's intention to decide on the case by summary judgment should the Applicant fail to provide the requested information. Unfortunately, despite the Tribunal's request, the Applicant did not identify any administrative decision.

#### Conclusion

19. For the foregoing reasons it is DECIDED that :  
the application is rejected in its entirety.

(Signed)

Judge Thomas Laker

Dated this 10<sup>th</sup> day of December 2009

Entered in the Register on this 10<sup>th</sup> day of December 2009

(Signed)

Víctor Rodríguez, Registrar, Geneva