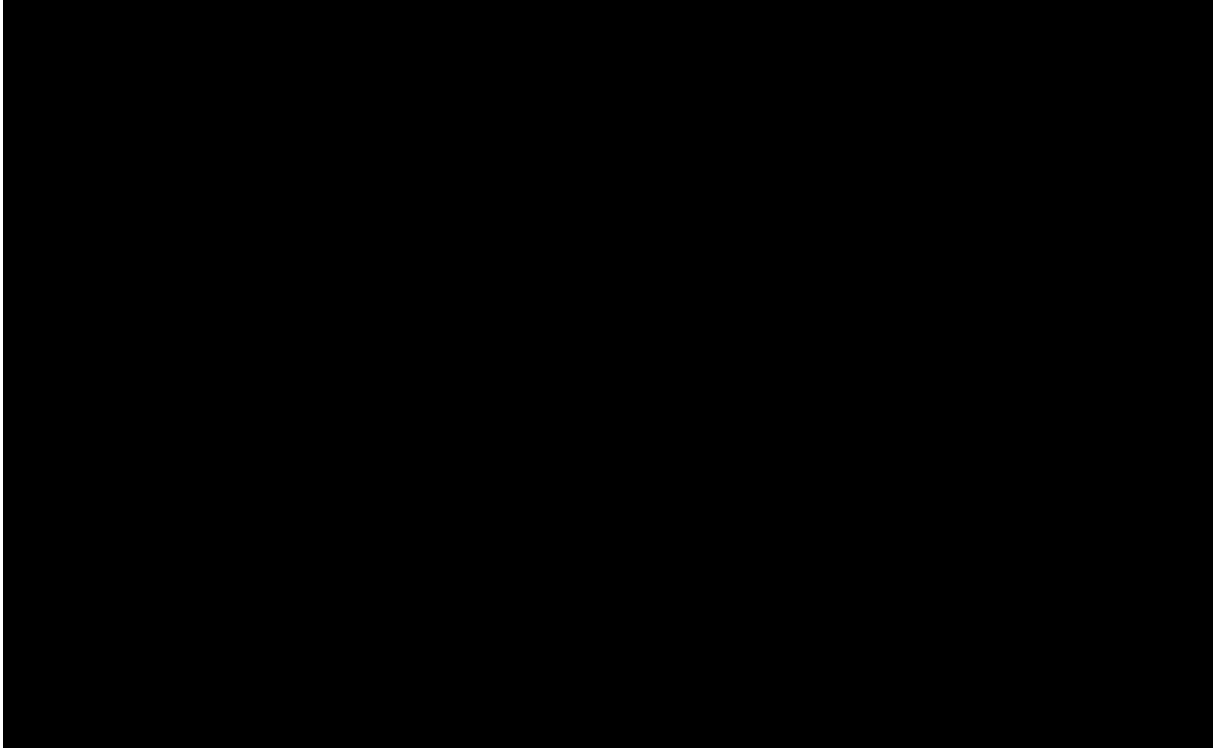


Judgment No. 2019-UNAT-899



Counsel for Appellant: Amer Abu-K alaf! "#\$A

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< #n 26 \* ar& 2018! =\* r. As our> reEusted re(-e: of t e de&s-on not to sele&  
-m for t e post of . 3CA+, -n t e 9A#.

< #n 19 Jul5 2018! =\* r. As our> f-led -s appl-&at-on : -t t e UN%OA  
. -spute Tr-bunal.

6. #n 16 June 2018! t e UN%OA . -spute Tr-bunal -ssued -ts Judgment and found t at t e  
sele&-on pro&ess ad been ta-nted b5 -rregular-t-e

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deteriorated due to the emotional harm caused by the manner in which the panel's comments and by the manner in which the respondent was treated to the position. \* r. As our first request the Appeals Tribunal to award the maximum possible compensation for the harm to his health and moral damages in the amount of: 5 years net base salary US\$ 8,844.802

9. "astly \* r. As our argues that the presented evidence to the UNCOA. That the : as submitted to managerial harassment and abuse of power and requested the UNCOA. To refer the case to the Commissioner-General for accountability. +o: e(er! t e UNCOA. T failed to exercise its jurisdiction to consider his request.

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10. The Commissioner-General requests the Appeals Tribunal

16. The Commissioner-General argues that \* r. As our failed to request moral damages -n -s application and is barred from doing so for the first time on appeal. \* r. As our admissions

process : as tainted by irregularities and bias, nor as to the order of reassignment of the duties  
not to select Mr. As our for the post of . 3CA+, .

The amount of in-lieu compensation

18. Mr. As our contests the amount of the in-lieu compensation granted by the  
UN/OA . The Tribunal found that he failed to adduce any error of law or of fact leading to  
a manifestly unreasonable decision in this respect.

18. It is settled jurisprudence that the purpose of in-lieu compensation is to place the  
staff member in the same position he or she would have been in had the reassignment  
been completed.





THE UNITED NATIONS APPEALS TRIBUNAL

burden of proof to establish the existence of negative consequences, able to be considered damages resulting from the illegality on a cause-effect link. In our case, the respondent must be held responsible for the administrative decision.<sup>12</sup> Of these other elements of the notion of responsibility are not justified, the illegality can be declared but compensation cannot be awarded.<sup>16</sup>

62. Even though there appears to have been some fluctuation in Mr. Asour's control of blood sugar levels between 6 September 2018 and 19 July 2018, the time lapse since the 15 September 2018 interview is as long enough to enable factors other than the recognized illegality to have played a role in the (arbitrary) particulars due to the fact that Mr. Asour already had diabetes, leading to the operation on his waist to that of Mr. Asour alone. Therefore, Mr. Asour's interpretation of the lab reports needed to have been corroborated by additional evidence.

66. In spite of the fact that in his appeal Mr. Asour mentioned the possibility of producing additional evidence to complement the comparative lab results, he has nevertheless failed to present such evidence, nor presented the evidence itself before the UN/OA. Or before the Appeals Tribunal. Consequently, he found that Mr. Asour has failed in his duty to provide sufficient evidence of an arm resulting from the impugned decision.

64. On the other hand, no error in the UN/OA. Tribunal judgment on this matter.

Referral for accountability ) Abuse of assets process

63. Mr. Asour claims that the UN/OA Tribunal erred in not having referred the case to the Commission General for action to enforce accountability: that is, to end the practice against people: the lack of the patronage of the existing positions of the General, program and to improve the recruitment process there.

6B. In this respect, apart from the fact that Mr. Asour did not see/ a referral in his application before the UN/OA. Tribunal previous decisions regarding previous submissions of alleged practice against him in the General, program do not fall: that is, in the

<sup>12</sup> \* *ihai v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-824, para. 21! & t ng + iatta v. Secretary-General of the United Nations! Judgment No. 2018-UNAT-840G , sra&ha6795(q30794s)431]TJC/R14 9.96840aB ac%ccNN

scope of the present case and therefore should not be dealt with in this Judgment. Moreover, despite the fact that the Appellant referred to the submissions in the original application before the UNAO. The Appellant attached them as an annex to its a

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