

# UNDT/2011/068, Garcia

## UNAT Held or UNDT Pronouncements

Submissions on new issues after the trial, re-opening of litigation: Parties will not be permitted to re-open substantive litigation after the Tribunal has already rendered its judgment on liability and is dealing solely with the issue of compensation. The Tribunal will take into account the staff member's earnings during the relevant period of time for the purpose of calculating compensation. Interest for lost salary: Lost salary should be subject to interest on the basis that it would have been paid in separate monthly installments, with interest on each installment calculated in accordance with Warren 2010-UNAT-059, from the date it became due. Outcome: The following relief was ordered: (i) USD89,128.48 with retroactive interest (compensation for the lost salary and entitlements), (ii) USD241 with retroactive interest (compensation for the medical examination), (iii) USD50,000 (compensation for non-pecuniary loss, including harm to emotional well-being, consequential deterioration of health, and harm to reputation), (iv) any adverse material pertaining to the reasons for and the circumstances of the unlawful decision not to effectuate the Applicant's employment on 1 October 2007 shall be removed from his personnel file.

## Decision Contested or Judgment/Order Appealed

This Judgment follows Garcia UNDT/2010/191, in which the Tribunal found that the United Nations Development Programme breached its contract with the Applicant by failing to execute their employment relationship.

## Legal Principle(s)

Purpose of compensation: The purpose of compensation is to place the staff member in the same position he or she would have been in had the Organisation complied with its contractual obligations. Compensation and mitigation of losses: A party

affected by a breach of contract has a duty to mitigate her or his losses.

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Garcia

## Entity

UNDP

## Case Number(s)

UNDT/NY/2009/112

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

8 Apr 2011

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Compensation

Pecuniary (material) damages

## Related Judgments and Orders

UNDT/2009/076

UNDT/2010/011

UNDT/2010/113

UNDT/2010/122

UNDT/2010/128

UNDT/2010/148

UNDT/2010/191

UNDT/2010/200

UNDT/2011/012

2010-UNAT-059

2010-UNAT-092

2010-UNAT-093

2010-UNAT-095