

# **UNDT/2013/049, Fayek**

## **UNAT Held or UNDT Pronouncements**

The UNDT sought confirmation from the Applicant that the case was withdrawn in its entirety, including on the merits, with no right of reinstatement. The Applicant having confirmed that she was withdrawing the matter fully, including on the merits, and with no right of reinstatement, the UNDT stated in the judgment that, there no longer being any determination to make in view of the Applicant's unequivocal withdrawal of her application, the application was dismissed in its entirety without liberty to reinstate.

## **Decision Contested or Judgment/OrderAppealed**

The Applicant filed an application contesting the decision not to select her for a temporary position at the P-4 level. The Applicant subsequently filed a notice of withdrawal of her application.

## **Legal Principle(s)**

Finality of disputes: The desirability of finality of disputes in proceedings requires that a party should be able to raise a valid defence of res judicata which provides that a matter between the same persons, involving the same cause of action may not be adjudicated twice. Res judicata: Once a matter has been determined, parties should not be able to re-litigate the same issue. An issue, broadly speaking, is a matter of fact or question of law in a dispute between two or more parties which a court is called upon to decide and pronounce itself on in its judgment. The object of the res judicata rule is that "there must be an end to litigation" in order "to ensure the stability of the judicial process" (Meron 2012-UNAT-198). Judgment: Generally, a judgment involves a final determination of the proceedings or of a particular issue in those proceedings.

## Outcome

Closed on withdrawal

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Fayek

## Entity

UN Secretariat

## Case Number(s)

UNDT/NY/2012/084

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

13 Mar 2013

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Procedure (first instance and UNAT)

## Applicable Law

UNDT RoP

- Article 19
- Article 36

UNDT Statute

- Article 2

## Related Judgments and Orders

UNDT/2010/047

UNDT/2010/074

UNDT/2011/104

UNDT/2011/202

UNDT/2012/194

2010-UNAT-026bis

2010-UNAT-063

2010-UNAT-066

2011-UNAT-129

2012-UNAT-198