

# UNDT/2015/019, Gehr

## UNAT Held or UNDT Pronouncements

The Tribunal found that a fundamental procedural flaw had occurred since the same staff member had fulfilled the roles of both the Applicant's first and second reporting officers. However, no financial compensation was warranted, as the Applicant did not demonstrate that he sustained any material or moral damage stemming from this breach.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the finalisation of his performance appraisal, including the rebuttal process, for the period 1 April to 31 December 2011.

## Legal Principle(s)

Receivability: The rebuttal panel is not a "technical body" in the sense of staff rule 11.2, hence, an Applicant is required to first request management evaluation in order to contest its findings. Such management evaluation must be requested before filing an application with the Tribunal. Otherwise, the application will be irreceivable. Where an applicant has failed to duly fulfill certain receivability requirements in reliance on the advice of competent officials within the UN internal justice system, it is fair to enter into the merits of the application. Applicability of ST/AI/2010/5: Under the terms of sec. 1 of the instruction, it is permitted, although not mandatory, to apply the regime of performance management laid down in said instruction to staff members holding a fixed-term appointment of less than one year. Different first and second reporting officers: The first and second reporting officers in one performance evaluation must be two different individuals. Allowing the "blending" of both functions in one person would defeat the underlying purpose of having two independent minds reviewing a staff member's performance and, ultimately, would render meaningless the system of "checks and balances" carefully

established in ST/AI/2010/5.

## Outcome

Judgment entered for Applicant in full or in part

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Gehr

## Entity

UNODC

## Case Number(s)

UNDT/GVA/2013/64

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

20 Feb 2015

## Duty Judge

Judge Laker

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Performance management

Performance evaluation

Rebuttal

## Applicable Law

Administrative Instructions

- ST/AI/2002/3
- ST/AI/2010/4/Rev.1
- ST/AI/2010/5

Staff Rules

- Rule 1.3
- Rule 11.2

UNDT Statute

- Article 10.5(a)

## Related Judgments and Orders

UNDT/2012/190

UNDT/2012/059

UNDT/2014/115

UNDT/2010/070

UNDT/2013/135

UNDT/2010/133

2013-UNAT-313

2014-UNAT-479

2010-UNAT-021

2012-UNAT-224