

# UNDT/2017/013, Ho

## UNAT Held or UNDT Pronouncements

**Due diligence:** A delay in payment of an entitlement under the Staff Rules and Regulations can constitute a violation of a general principle of due diligence and good faith towards staff members, enshrined in the Charter of the United Nations, which is a structural principle of good management practice. **Undue delay:** In order to assess whether a delay in payment of an entitlement is undue, the Tribunal will look into the time payment would have taken had normal workflows been respected. A delay of eleven months in payment of an entitlement is undue and may warrant compensation provided the Applicant suffered any damages. **Material damages:** To calculate material damages resulting from a delay in payment, the Tribunal may take into account the UNORE applied at the time of the late payment, as opposed to that which applied at the time the entitlement became due. If as a result of the exchange rate applied at the time of the payment, the Applicant received more than she/he would have had the exchange rate at the time the entitlement became due been applied, and that amount exceeds any interest the Applicant might have received in application of Warren 2010-UNAT-059, she/he cannot get compensation for material damages. **Moral damages:** The Tribunal finds it reasonable to conclude that the fact that an Applicant had to write several emails and even had to escalate the matter by involving OSLA to finally receive payment of an entitlement resulted in stress, frustration and anxiety, warranting compensation.

## Decision Contested or Judgment/Order Appealed

The Applicant resigned from the Organization effective 15 February 2015 and provided proof of relocation on 26 May 2015. Despite several follow-ups, the Organization paid the repatriation grant to the Applicant's bank account only on 31 May 2016, after she involved the Office of Staff Legal Assistance (OSLA). The Tribunal found that the Organization failed to comply with its duty to make timely payment of the repatriation grant to the Applicant. However, it noted that she did not suffer any material damages as a consequence of that late payment because the

United Nations Operational Rates of Exchange (UNORE) applied in May 2016 was higher than that of June 2015 (when the entitlement to repatriation grant became due). Hence, the Applicant received a higher amount in local currency (Malaysian ringgit) than she would have had the payment been timely. However, the Tribunal found that there was evidence that the Applicant suffered moral damages warranting compensation in the amount of USD500.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

## Outcome Extra Text

Only financial compensation

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Ho

## Entity

UNFCCC

## Case Number(s)

UNDT/GVA/2016/89

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

7 Mar 2017

## Duty Judge

Judge Bravo

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Repatriation grant

Compensation

Non-pecuniary (moral) damages

## Applicable Law

Staff Regulations

- Regulation 9.4

Staff Rules

- Rule 3.19(a)

UNDT RoP

- Article 9

UNDT Statute

- Article 10.5(b)

## Related Judgments and Orders

UNDT/2010/011

2010-UNAT-093

UNDT/2015/053

2010-UNAT-059

2013-UNAT-309