

# 2010-UNAT-042, Wu

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT held that there was no reason to re-examine the judgments of the former Administrative Tribunal in judgment No. 1047, Helke (2002) and judgment No. 1122, Lopes Braga (2003). UNAT held that the award of compensation for non-pecuniary damage did not amount to an award of punitive or exemplary damages designed to punish the Organisation and deter future wrongdoing. UNAT held that UNDT did not err in finding that the staff member suffered stress based on his submission. UNAT held that UNDT had committed no error in awarding compensation for the delay in notifying the staff member of the selection decision. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicant contested the decision not to select him for two Chinese Reviser posts at the P-4 level, seeking compensation. UNDT found, based on the Kasyanov judgment (judgment No. UNDT/2009/022), that the decision to choose two 30-day candidates instead of the Applicant, a 15-day candidate, violated Section 7. 1 of ST/AI/2006/3 and that, therefore, the decision not to appoint the Applicant was procedurally flawed. UNDT noted that, shortly after the Applicant had been notified that he had not been selected for the two subject posts, he was informed that he was successful in his application for another Chinese Reviser post at the P-4 level in Geneva and that he assumed the functions of this post on 1 September 2008. UNDT, therefore, found that the Applicant's loss of opportunity was limited in scope and time. UNDT, nevertheless, awarded compensation in the amount of two months' net base salary.

## Legal Principle(s)

The Statute of the former Administrative Tribunal did not specifically prohibit the award of exemplary or punitive damages. Therefore, the former Administrative Tribunal's award of compensation is not limited. Furthermore, under both Statutes, compensation can exceed two years' net base salary in exceptional circumstances.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Wu

## Entity

UNOG

## Case Number(s)

2010-042

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

1 Jul 2010

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Staff selection (non-selection/non-promotion)

## Applicable Law

Administrative Instructions

- ST/AI/2006/3

UNDT Statute

- Article 10.5(a)
- Article 10.5(b)
- Article 10.7

## Related Judgments and Orders

UNDT/2009/084