

# **2012-UNAT-210, Finniss**

## **UNAT Held or UNDT Pronouncements**

UNAT considered an appeal by the Secretary-General. Noting the absence of a written record, UNAT held that it could not confirm if the procedure under Article 17 (Oral Evidence) of the UNDT RoP was complied with, whether the witnesses made a declaration under Article 17(3) of the UNDT RoP before giving their statements, or whether the witnesses were cross-examined by the opposing party under Article 17(1) of the UNDT RoP. UNAT set aside the UNDT judgment and remanded the case to UNDT for a fresh hearing based on the pleadings already on record in a matter consistent with the UNAT judgment.

## **Decision Contested or Judgment/Order Appealed**

The Applicant initiated two separate proceedings against decisions not to promote him to two different posts and UNDT consolidated both cases. UNDT found both decisions to be unlawful, awarding compensation.

## **Legal Principle(s)**

A lack of a written record at the UNDT or first-instance level will greatly impede UNAT's ability to make a decision on appeal.

## **Outcome**

Appeal granted

## **Full judgment**

[Full judgment](#)

## Applicants/Appellants

Finniss

## Entity

MONUC

## Case Number(s)

2011-216

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

16 Mar 2012

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Procedure (first instance and UNAT)

Case management

## Applicable Law

UNAT RoP

- Article 17

## Related Judgments and Orders

UNDT/2011/060