

# **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