

# **2013-UNAT-380, Cooke**

## UNAT Held or UNDT Pronouncements

UNAT considered an appeal by the Secretary-General. UNAT considered that UNDT failed to show proper consideration for judicial economy and efficiency by choosing to proceed with a hearing on the merits of Mr Cooke's application in full knowledge of an appeal by the Secretary-General and ignoring the possibility that its judgment on Receivability might be reversed, as it was. UNAT held that when it determines that UNDT improperly received an application and reverses or vacates a judgment on receivability, any judgment on the merits is null and void ab initio. UNAT clarified that this did not mean, however, that the judgment on the merits was automatically vacated; only UNAT can vacate a judgment, upon application by a party. UNAT granted the Secretary-General's appeal and vacated the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested his summary dismissal. UNDT found for the Applicant.

## Legal Principle(s)

When UNDT improperly receives an application and reverses or vacates a judgment on receivability, any judgment on the merits is null and void ab initio.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Cooke

## Entity

UNICEF

## Case Number(s)

2013-432

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

17 Oct 2013

## President Judge

Judge Chapman

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Procedure (first instance and UNAT)

## Applicable Law

UNDT Statute

- Article 10.5

## Related Judgments and Orders

UNDT/2012/154