

# 2015-UNAT-500, Said

## UNAT Held or UNDT Pronouncements

UNAT considered appeals by both Mr Said, limited to the amount of damages awarded, and by the Secretary-General. UNAT held that UNDT made several errors of law when it found UNICEF's decision not to renew Mr Said's contract for poor performance was not supported by his Performance Evaluation Report (PER) and was unlawful. UNAT held that UNDT did not accord any deference to UNICEF's conclusion that Mr Said's performance was poor and, instead, UNDT placed itself in the role of the decision-maker and determined whether it would have renewed the contract, based on the PER. UNAT held that UNDT made an error of law when it set its own standard for the poor performance required to support a non-renewal decision. UNAT held that UNDT made an error of law in finding that UNICEF had ignored all elementary rules of fairness in regard to performance and improvement. UNAT held that UNDT exceeded its competence in reaching issues not raised by Mr Said. UNAT held that UNDT made errors of law when it concluded that the UNICEF's decision not to renew Mr Said's appointment due to his poor performance was not supported by his PER and was unlawful. UNAT granted the Secretary-General's appeal, dismissed Mr Said's appeal and vacated the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision not to renew his appointment for poor performance. UNDT found for the Applicant and awarded compensation.

## Legal Principle(s)

It is not the function of UNDT to substitute its own decision for that of the Administration.

## Outcome

Appeal dismissed on merits; Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Said

## Entity

UNICEF

## Case Number(s)

2014-569

2014-572

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

26 Feb 2015

## President Judge

Judge Chapman

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Non-renewal

Separation from service

Expiration of appointment (see also, Non-renewal)

## Applicable Law

UNAT RoP

- Article 18.1

UNAT Statute

- Article 8.3

UNICEF Administrative Instructions

- CF/AI/2009-005
- CF/AI/2010-001

## Related Judgments and Orders

UNDT/2013/150

2013-UNAT-357

2013-UNAT-329

2012-UNAT-216

2010-UNAT-084

2012-UNAT-261

2011-UNAT-153

2010-UNAT-061

2013-UNAT-298

2012-UNAT-201

2010-UNAT-021

2011-UNAT-176

