

# 2015-UNAT-516, Fiala

## UNAT Held or UNDT Pronouncements

UNAT considered two appeals by the Secretary-General against Order No. 136 (NBI/2010) and judgment No. UNDT/2014/007. UNAT held that it was not satisfied that the actions of the Secretary-General in filing two appeals amounted to an abuse of process and declined Ms Fiala's application for an award of costs against the Secretary-General. UNAT held that there was no error of law or fact on the part of UNDT in deeming Ms Fiala's application receivable. Noting that the weight to be attributed to evidence was a matter for UNDT, UNAT held that the arguments advanced by the Secretary-General did not persuade it that the conclusions of UNDT were manifestly unreasonable in all the circumstances of the case. UNAT found no merit in the Secretary-General's challenge to the award of moral damages. UNAT dismissed both appeals, affirmed Order No. 136 (NBI/2010) and judgment No. UNDT/2014/007 and instructed the Registrar to close Case No. 2014-590.

## Decision Contested or Judgment/Order Appealed

Ms Fiala contested the decision to appoint her at the FS-4 level rather than the FS-5 Level. UNDT found for Ms Fiala, awarding compensation and moral damages.

## Legal Principle(s)

Where UNDT renders separate judgments on receivability and on the merits, an appeal should be filed only after the final judgment has been rendered. UNAT cannot try a case de novo; it defers to UNDT on factual matters, especially when oral testimony is taken. UNDT is best placed to assess damages.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Fiala

Entity

UNAMSIL

Case Number(s)

2014-590

2014-595

2014-596

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

President Judge

Judge Faherty

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Non-renewal

Arbitrary or improper motive

Reason(s)

Performance management

Performance evaluation

Applicable Law

UNAT Statute

- Article 2.1
- Article 7.4

Related Judgments and Orders

UNDT/2014/007

2010-UNAT-060

2014-UNAT-444

2010-UNAT-076

2013-UNAT-280

2011-UNAT-121

2010-UNAT-079