

# 2015-UNAT-532, Dalgaard et al.

## UNAT Held or UNDT Pronouncements

UNAT considered the motion for execution of judgment No. 2013-UNAT-359. UNAT noted that it had been provided with information from the Secretary-General that all six members of Dalgaard et al. had either resigned, retired or transferred from ICTY prior to the issuance of the impugned decision. In light of this information, UNAT held that none of them could rightfully claim that they were entitled to moral damages as a result of their rights being violated by the impugned decision. UNAT opined that the course of action taken by the Secretary-General, in deciding that Dalgaard et al. were ineligible to be paid the award of damages when there was a UNAT order to the contrary, was unacceptable. UNAT held that it was the Secretary-General's duty to give proper observance to the order of UNAT. UNAT held there was no merit in the Secretary-General's case. UNAT held that the members of Dalgaard et al. could not be said to have come to court with clean hands and if they had disclosed the true facts as to their separation, their claim to moral damages would have been found to be without merit. UNAT held that it is the self-evident duty of all counsel appearing before the Tribunals to contribute to the fair administration of justice and the promotion of the rule of law and UNAT held that Counsel for Dalgaard et al. failed in this duty by allowing UNAT to proceed on a factual basis which Counsel should have known to be untrue, resulting in an award of moral damages to which Dalgaard et al. were not entitled. UNAT held that justice in the case would be met if the judgment in favour of Dalgaard et al. were not executed. UNAT refused the Motion for Execution, with Judge Simón and Judge Faherty dissenting.

## Decision Contested or Judgment/Order Appealed

Previous UNAT judgment: In judgment No. 2013-UNAT-359 (Ademagic et al. ), UNAT awarded compensation. Six individuals (Dalgaard et al. ) of the original Ademagic et al. group, filed a motion for execution of the judgment in relation to the payment of non-pecuniary damages with interest.

## Legal Principle(s)

It is the Secretary-General's duty to give proper observance to an order of UNAT and in failing to do so, he puts himself at risk of contempt proceedings. It is a self-evident duty of all counsel appearing before the Tribunals to contribute to the fair administration of justice and the promotion of the rule of law.

## Outcome

Revision, correction, interpretation or execution

Full judgment

[Full judgment](#)

Applicants/Appellants

Dalgaard et al.

Entity

ICTY

Case Number(s)

2014-684

Tribunal

UNAT

Registry

New York

Date of Judgement

26 Feb 2015

Language of Judgment  
English  
Issuance Type  
Judgment  
Categories/Subcategories  
Conduct  
Conduct of counsel  
Judgment-related matters  
Execution of Judgment  
Applicable Law  
Secretary-General's bulletins

- ST/SGB/2009/10

Related Judgments and Orders

2013-UNAT-359  
2013-UNAT-355  
2011-UNAT-129  
2010-UNAT-063  
2013-UNAT-393  
2014-UNAT-410  
2012-UNAT-255  
2010-UNAT-056  
2014-UNAT-432  
2011-UNAT-160