# 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