

# 2016-UNAT-613, Gehr

## UNAT Held or UNDT Pronouncements

UNAT considered the appeal by the Secretary-General. UNAT held that despite acknowledging that under UNAT's jurisprudence, a rebuttal panel is not a technical body, UNDT declined to follow its jurisprudence. UNAT held that UNDT had erred by waiving the management evaluation as a receivability requirement. UNAT held that UNDT exceeded its jurisdiction, and made an error of law when it received an application, which was not receivable *ratione materiae*. UNAT upheld the appeal was upheld and vacated the UNDT judgment in its entirety.

## Decision Contested or Judgment/Order Appealed

The Applicant challenged his performance evaluation for the period of 1 April through 31 December 2011. UNDT found that, despite the Applicant's failure to seek management evaluation, the application was receivable. UNDT rescinded the Applicant's performance appraisal and ordered that its judgment be placed in his Official Status File.

## Legal Principle(s)

UNDT does not have authority to disregard the UNAT's jurisprudence, which is *stare decisis* and must be followed. Under UNAT's jurisprudence, a rebuttal panel is not a technical body. It is the staff member's responsibility to ensure that he or she is aware of the applicable procedure in the context of the administration of justice at the United Nations. Ignorance cannot be invoked as an excuse.

## Outcome

Appeal granted

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Gehr

## Entity

UNODC

## Case Number(s)

2015-709

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

24 Mar 2016

## President Judge

Judge Chapman

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Jurisdiction / receivability (UNAT)

Manifest excess of jurisdiction

Subject matter (*ratione materiae*)

Jurisdiction / receivability (UNDT or first instance)

## Applicable Law

Staff Rules

- Rule 11.2(a)
- Rule 11.2(b)

UNDT Statute

- Article 8.1(c)
- Article 8.3

## Related Judgments and Orders

UNDT/2015/019

2013-UNAT-293

2013-UNAT-311

2015-UNAT-521

2013-UNAT-349

2014-UNAT-410

2012-UNAT-275

2015-UNAT-588

2015-UNAT-566

2014-UNAT-446

2015-UNAT-565