

2018-UNAT-832, Nikolarakis

UNAT Held or UNDT Pronouncements

UNAT considered the appeal while the application for revision before UNDT was still pending. UNAT held that the new job opening for 13 S-3 level vacancies, for which the Applicant was invited to interview, is a matter which could be relevant to the issue of the quantum of compensation. UNAT remanded the case to UNDT to complete its hearing of the application for revision of judgment.

Decision Contested or Judgment/Order Appealed

UNDT judgment: The Applicant requested a management evaluation of the decision to exclude him from a recruitment procedure for a S-3 Senior Security Officer Position. The Secretary-General conceded that the contested recruitment exercise was “unlawful from the outset”, accepting the recommendation of the Management Evaluation Unit, and agreed to compensate the Applicant USD 833. 45. The Applicant contested the quantum of damages. UNDT ordered the rescission of the contested administrative decision and in-lieu compensation of USD 20,000, plus USD 5,000 for loss of opportunity for career advancement and for loss of job security. The Secretary-General appealed to UNAT and filed an application for revision of judgment requesting UNDT to take note of a new job opening issued subsequently for 13 S-3 vacancies for which the Applicant was invited to interview.

Legal Principle(s)

UNDT is precluded from deciding an application for revision of its judgment while the judgment is pending appeal before UNAT. This is because, pursuant to Article 12. 1 of the UNDT Statute, an application for revision must relate to an executable judgment, whereas, under Article 7. 5 of the UNAT Statute, the filing of the appeal has the effect of suspending the execution of the judgment.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Nikolarakis

Entity

DSS

Case Number(s)

2017-1121

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters
Revision of Judgment

Applicable Law

UNAT Statute

- Article 7.5

UNDT Statute

- Article 10.5
- Article 12.1

Related Judgments and Orders

UNDT/2017/068