

# 2014-UNAT-448, Terragnolo

## UNAT Held or UNDT Pronouncements

UNAT considered the Secretary-General's appeal and Mr Terragnolo's cross-appeal, noting that only the compensation awarded by UNDT was being contested. With respect to the Secretary-General's appeal, UNAT held that the specific remedy of allowing Mr Terragnolo to take the examination was not available and therefore, subsidiary compensation was the appropriate remedy to be ordered. UNAT noted that the impugned judgment followed UNAT's jurisprudence, but UNDT's estimation of the loss of chance was absurd or contrary to the evidence and particular circumstances of the case. UNAT held that due respect must be shown to the trial court's assessment of the quantum of damages and that it should not interfere with the exercise of that discretion. Following this reasoning, UNAT also found no merit in Mr Terragnolo's cross-appeal and noted that the amount of compensation for moral damages could not be increased due to a finding of retaliation, because there was no evidence on the record that it caused the administrative illegality. UNAT found no merit in Mr Terragnolo's claim for reimbursement of the cost of his studies, as that was a benefit he acquired irrespective of any examinations or competing processes that he could have attended or actually attended. UNAT dismissed the appeal and cross-appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

Mr Terragnolo contested the Central Examinations Board's decision not to convoke him to the written Young Professional Program examination in economic affairs on the basis that his educational qualifications did not meet the prescribed requirements. UNDT held that Mr Terragnolo's educational qualifications entitled him to sit for the examination and that the decision to refuse his candidacy on this basis was manifestly erroneous and unlawful. UNDT awarded Mr Terragnolo USD 8,000 as compensation for pecuniary damages and USD 2,500 for moral damages.

## Legal Principle(s)

Mere allegations, speculations, justified or unjustified fears or suspicions of persecution, or the sole circumstance of serving as a Staff Union representative, who experiences an administrative illegality, do not allow for a conclusion of retaliation.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Terragnolo

Entity

DGACM

Case Number(s)

2013-517

Tribunal

UNAT

Registry

New York

Date of Judgement

27 Jun 2014

President Judge  
Judge Simón  
Language of Judgment  
English  
Issuance Type  
Judgment  
Categories/Subcategories  
Compensation  
Non-pecuniary (moral) damages  
Pecuniary (material) damages  
Remedies  
Compensation (see also, Compensation)  
Related Judgments and Orders  
UNDT/2013/093  
2012-UNAT-205  
2013-UNAT-350