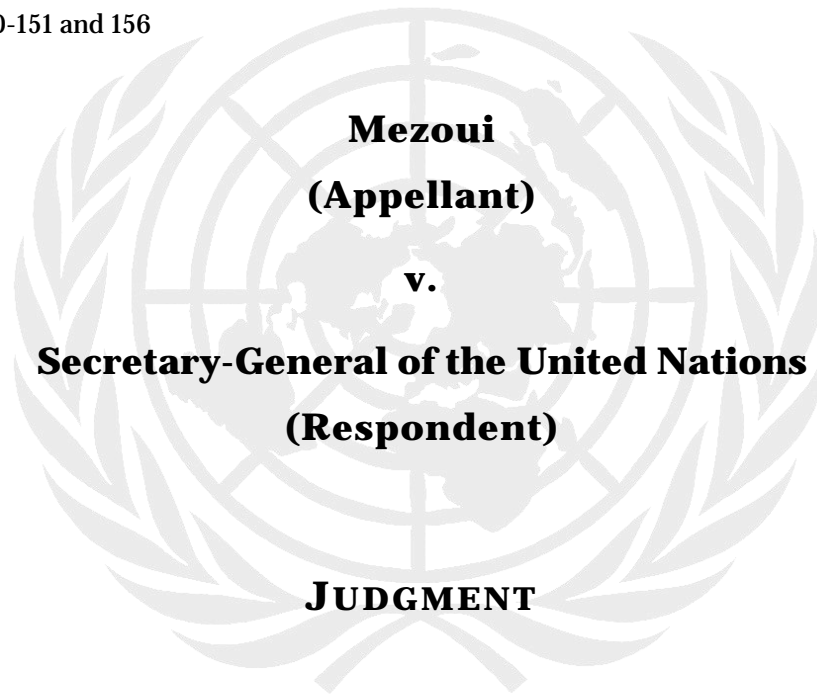




**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Cases Nos. 2010-151 and 156



**Mezoui  
(Appellant)**

**v.**

**Secretary-General of the United Nations  
(Respondent)**

**JUDGMENT**

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**Before:** Judge Mark P. Painter, Presiding  
Judge Jean Courtial,  
Judge Inès Weinberg de Roca

**Judgment No.:** 2011-UNAT-101

**Date:** 1 March 2011

**Registrar:** Weicheng Lin

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**Counsel for Appellant:** François Lorient

**Counsel for Respondent:** Phyllis Hwang

**APPLICATION FOR INTERPRETATION, TWO APPEALS FROM UNDT  
ORDERS, AND A MOTION FOR “JOINDER AND FAST TRACK HEARING”**

**Facts and Procedure**

1. Hanifa Mezoui (Mezoui) challenged a determination by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva in Judgments Nos. UNDT/2009/026 and UNDT/2009/087 that her case was not receivable. In Judgment No. 2010-UNAT-043, the United Nations Appeals Tribunal (Appeals Tribunal or this Court) reversed the Dispute Tribunal’s finding and remanded the case to the UNDT for a hearing on the merits.
2. Following the remand by the Appeals Tribunal, the Dispute Tribunal in Geneva issued three orders in respect of Mezoui’s case.
3. On 31 August 2010, the Dispute Tribunal issued UNDT Order No. 71 (GVA/2010), ordering, inter alia, that the case be reopened, that a copy of a memorandum of the Senior Review Group, dated 11 May 2006, be transmitted to Mezoui, and that Mezoui file a complete application to the UNDT in Geneva no later than 1 October 2010.
4. On 1 September 2010, Mezoui filed with Laker, J., President of the UNDT, a request for recusal of Cousin, J., who was the author of Judgments Nos. UNDT/2009/026 and UNDT/2009/087, and a motion for change of venue from Geneva to New York.
5. On 17 September 2010, Laker, J. issued UNDT Order No. 72 (GVA/2010), rejecting Mezoui’s request. In his view, there was no evidence to support Mezoui’s claim that Cousin, J. had a conflict of interest. Judge Laker also decided not to entertain Mezoui’s motion for change of venue as “[s]uch decisions are normally taken by the Judge to whom the case was assigned in consultation with the Judges at the duty station where the transfer is sought”.
6. On 21 September 2010, Cousin, J. issued UNDT Order No. 73 (GVA/2010), in which he rejected Mezoui’s motion for a change of venue, but extended the time limit for her to complete her application from 1 October to 15 October 2010. Judge Cousin noted that the case had started in New York, but was subsequently transferred to Geneva at Mezoui’s request. (In Order No. UNDT/NY/2009/10 dated 28 August 2009, Shaw, J.

ordered that Mezoui's case be transferred from New York to Geneva. Judge Shaw stated that she had reviewed the case file, and that the parties had no objection to a change of venue. In her appeal dated 8 February 2010, Mezoui referred to this event and stated that she had tacitly agreed to the transfer.) Judge Cousin stated that he had consulted the UNDT judges in New York on this matter.

7. On 14, 28, and 29 October 2010, Mezoui filed an application for interpretation of UNAT Judgment No. 2010-UNAT-043 (application for interpretation), an interlocutory appeal from UNDT Orders 71 and 72, and an interlocutory appeal from UNDT Orders 71 and 73, as well as a motion requesting a "joinder and fast-track hearing" by this Court of her interlocutory appeals.

8. The issue for which Mezoui seeks interpretation from this Court is to which UNDT registry the Appeals Tribunal has remanded her case in Judgment No. 2010-UNAT-043. She maintains that Judge Shaw's Order to transfer her case from New York to Geneva "was issued without any due process and in absentia" and "without reason and without Mezoui's consent". She insists that "New York is the most natural and logical venue for this case" because it "is the only venue with proximity to the contested decisions and to their decision-makers".

9. Regarding the UNDT Orders, Mezoui maintains that Order No. 71 was "issued hastily and without the parties' views on the issues of disclosure and privileged evidence", that Order No. 72 was issued "without any further due process debate on the issue of disclosure and of privileged and redacted evidence", and that Order No. 73 was issued "based on three false assumptions". (underline in original) Mezoui requests that this Tribunal overrule the UNDT orders and order her case to be filed with the UNDT in New York.

10. On 23 November 2010, the Secretary-General filed his answer in respect of Mezoui's application for interpretation, her interlocutory appeals in respect of the UNDT Orders 71, 72, and 73 and her motion for a "joinder and fast track hearing" of her interlocutory appeals.

### Considerations

11. First, on Mezoui's motion for a "joinder and fast-track hearing" of her interlocutory appeals, we have consolidated the appeals and decided them today.

12. Mezoui's application for "interpretation" is a ruse to try to have this Court interfere in the UNDT's assignment of venue. This we will not do; it is a matter for the trial court's discretion. The determining venue must be left to the UNDT. Moreover, the UNDT is one Tribunal operating in three duty stations. The choice of the venue is, at least in large part, a question of management of the Dispute Tribunal.

13. This Court will generally not entertain interlocutory appeals.<sup>1</sup> These appeals are the exact type of quibbles that would prevent cases from ever coming to judgment.

**Judgment**

14. All of Mezoui's interlocutory appeals are denied. The motion for joinder of interlocutory appeals and their fast-track hearing is denied as interlocutory and moot. The application for "interpretation" is denied as unnecessary and interlocutory.

Dated this 1<sup>st</sup> day of March 2011 in New York, United States.

Original and authoritative version: English

*(Signed)*

Judge Painter, Presiding

*(Signed)*

Judge Courtial

*(Signed)*

Judge Weinberg de Roca

Entered in the Register on this 1<sup>st</sup> day of March 2011 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar

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<sup>1</sup> *Bertucci v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-062.