

# UNDT/2016/199, Nikwigize

## UNAT Held or UNDT Pronouncements

The Tribunal rejected the application on the merits.

## Decision Contested or Judgment/Order Appealed

The Applicant, a former Senior Programme Officer at the P-5 level in OHRLLS, filed an application contesting the decision issued on 17 December 2015 by the Assistant Secretary-General for Human Resources Management (“ASG/OHRM”) not to investigate his complaint of discrimination filed under the provisions of ST/SGB/2008/5 on 3 June 2015 against the USG/OHRLLS and a Director in OHRLLS.

## Legal Principle(s)

N/A The scope of the responsible official’s discretion when deciding whether to dismiss a complaint under ST/SGB/2008/5 or call a fact-finding panel: Benfield-Laporte 2015-UNAT-505 is the leading case and the responsible official therefore, “has a degree of discretion as to how to conduct a review and assessment of a complaint and may decide whether an investigation regarding all or some of the charges is warranted. Where there was no risk of undermining the investigation, it is good practice to hear both sides in order to decide whether there are sufficient grounds to warrant establishing a formal fact-finding investigation and assigning a case to a panel”. The present case could not be distinguished from Benfield-Laporte 2015-UNAT-505 as the Applicant has not identified that the responsible official’s discretionary action created any “risk of undermining the investigation” (see Benfield-Laporte, para. 38, second sentence) and no evidence on the case record can be construed as leading to such inference.

## Outcome

Dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Nikwigize

## Entity

OHRLLS

## Case Number(s)

UNDT/NY/2016/22

## Tribunal

UNDT

## Registry

New York

## Date of Judgement

3 Nov 2016

## Duty Judge

Judge Greceanu

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Disciplinary matters / misconduct

Discrimination and other improper motives

Investigation

Fact-finding investigation

## Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

UNDT RoP

- Article 7.1
- Article 7.2
- Article 7.3

UNDT Statute

- Article 3.1
- Article 8.1

## Related Judgments and Orders

2010-UNAT-073

2011-UNAT-182

2013-UNAT-313

2013-UNAT-335

2015-UNAT-519

2011-UNAT-123

2014-UNAT-417

2015-UNAT-505

2015-UNAT-518