

2016-UNAT-662, Masyikanova

UNAT Held or UNDT Pronouncements

The UNAT refused the Appellant's request for an oral hearing because it would not assist in the expeditious and fair disposal of the case", (Article 18(1) UNAT Rules). UNAT agreed with UNDT that there were "inordinate delays both at reviewing and assessing the complaint and in setting [up] a fact-finding panel and conducting the investigation itself" and that UNAMA was in breach of ST/SGB/2008/5. UNAT also agreed with the Secretary-General that the Appellant failed to demonstrate on appeal any error by the UNDT that would justify the reversal of its judgment. UNAT found that the Appellant's claims on appeal were essentially a repetition of her arguments that did not succeed before the UNDT. UNAT held that the Appellant's case was fully and fairly considered by the UNDT and that there was no alleged error that would have changed the outcome of her case. UNAT accordingly dismissed the appeal and affirmed UNDT's judgment.

Decision Contested or Judgment/Order Appealed

The Applicant contested the findings of the fact-findings panel and the non-disclosure of the fact-finding report by the United Nations Assistance Mission in Afghanistan (UNAMA). UNDT held that the fact-finding panel's findings were not an appealable decision. UNDT also held that the Secretary-General did not breach the Applicant's rights by not sharing with her the full report of the investigation. UNDT awarded compensation "for the inordinate delay in handling her complaint," but rejected the Applicant's other requested remedies and pleas.

Legal Principle(s)

The appeals procedure is of a corrective nature and is not an opportunity for a dissatisfied party to reargue his or her case; rather, an appellant must demonstrate that the court below has committed an error of fact or law warranting intervention

by UNAT.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Masyikanova

Entity

UNAMA

Case Number(s)

2015-872

Tribunal

UNAT

Registry

New York

Date of Judgement

30 Jun 2016

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Applicable Law

Secretary-General's bulletins

- ST/SGB/2008/5

UNAT Statute

- Article 18
- Article 8.3

Related Judgments and Orders

UNDT/2015/088

2015-UNAT-525

2015-UNAT-552

2016-UNAT-635

2010-UNAT-051

2015-UNAT-572

UNDT/2014/137