

2018-UNAT-817, Kisia

UNAT Held or UNDT Pronouncements

The Secretary-General appealed. UNAT held that UNDT erred on a question of law when it concluded that the procedure was flawed on the basis that it was not sufficient for the Assistant Secretary-General/Controller to countersign and approve the UNCB recommendation and that a separate and reasoned decision was necessary for the regularity of the administrative procedure. UNAT held that UNDT erred in law in finding that there was a procedural delay and, therefore, granting compensation. UNAT granted the appeal and vacated the UNDT judgment insofar as it awarded compensation for the procedural delay.

Decision Contested or Judgment/Order Appealed

Mr Kisa contested the decision not to compensate him for the loss of his personal property attributable to service, the unlawful failure of the UN to independently review and take a reasoned out and separate administrative decision from the recommendations of the United Nations Claims Board (UNCB), and unlawful violations of due process. UNDT granted the application in part. UNDT found that the claim for damages was not receivable since Mr Kisa had failed to take any reasonable steps to receive suitable compensation from his insurance as required by Sections 12 and 14(b)(ii) of ST/AI/149/Rev. 4. UNDT found, however, that when the contested decision was returned for UNDT's consideration, a procedural error was made, namely that the Assistant Secretary-General/Controller had not taken a separate and reasoned decision for almost 6 months. UNDT awarded Mr Kisa compensation as a relief for the procedural delays.

Legal Principle(s)

In the absence of an express provision to this effect, no law requires the decision-maker to make a distinct pronouncement, instead of simply referring to and

approving a preceding reasoned recommendation, which also ensures the necessary transparency of the decision. If the decision-maker fully approves a preceding recommendation and has nothing to add to its reasoning, there is no need for additional arguments, unless that is required by the applicable rules or regulations, or the decision ultimately departs from the recommendation.

Outcome

Appeal granted

Full judgment

[Full judgment](#)

Applicants/Appellants

Kisia

Entity

DSS

Case Number(s)

2017-1106

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Compensation

Due process

Delay

Applicable Law

Administrative Instructions

- ST/AI/149/Rev.4

Related Judgments and Orders

UNDT/2017/044