

# 2018-UNAT-831, Mizerska-Dyba

## UNAT Held or UNDT Pronouncements

UNAT held that the Appellant had failed to make a request for correction of her current contract. UNAT held that it could not step outside its statutory remit and examine the merits of the Appellant's claim for payments under her current contract when she had made no request for a review regarding it. UNAT held that JAB did not err in finding the Appellant's claims of 30 December 2015 for revision of her step level under the previous contract as not receivable since the Appellant submitted her request more than a year from the date on which she received her first salary or "initial payment". UNAT held that the Appellant could not succeed on a claim for "retroactive monetary compensation" as that claim was made several years after the "initial payment". UNAT dismissed the appeal.

## Decision Contested or Judgment/Order Appealed

ITLOS decision: The Applicant contested the decision to reject her request for revision of step level including monetary compensation. ITLOS Joint Appeals Board (JAB) issued a report finding that ITLOS Staff Rule 3. 17 excluded as time-barred all the Applicant's claims for monetary compensation relating to periods dating back to more than one year before her request. The ITLOS Registrar did not take a decision on the recommendation of the JAB. In the absence of a decision taken by the Registrar within 14 days after receipt of the report, an appeal before UNAT became, pursuant Article 2.5 of the Agreement between ITLOS and the UN, receivable.

## Legal Principle(s)

ITLOS Staff Rule 3. 17 which provides for the retroactivity of payments to staff members excludes all claims for monetary compensation relating to periods dating back to more than one year of the date on which the staff member would have been entitled to the initial payment.

## Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Mizerska-Dyba

Entity

ITLOS

Case Number(s)

2017-1120

Tribunal

UNAT

Registry

New York

Date of Judgement

22 Mar 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Salary

Jurisdiction / receivability (UNAT)

Subject matter (*ratione materiae*)

Temporal (*ratione temporis*)

Applicable Law

Agreements, conventions, treaties (etc.)

- Agreement between ITLOS and the UN

ITLOS Staff Regulations and Rules

- Rule 3.17