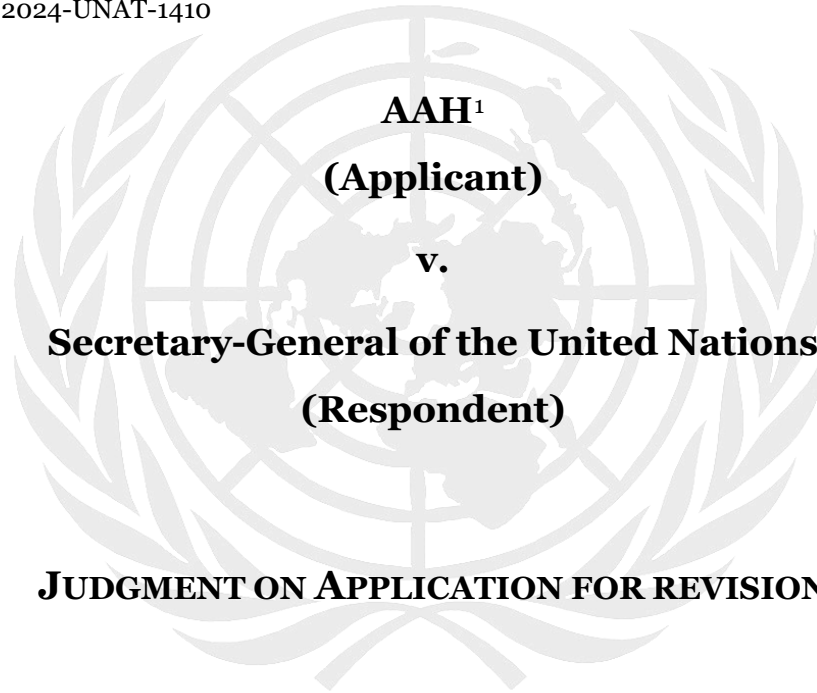




# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

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Judgment No. 2024-UNAT-1410



**AAH<sup>1</sup>**  
**(Applicant)**

**v.**

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

## **JUDGMENT ON APPLICATION FOR REVISION**

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Before:	Judge Nassib G. Ziadé, Presiding Judge Graeme Colgan Judge Abdelmohsen Sheha
Case No.:	2024-1891
Date of Decision:	22 March 2024
Date of Publication:	15 April 2024
Registrar:	Juliet E. Johnson

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Counsel for Applicant:	Self-represented
Counsel for Respondent:	Agnieszka Martin

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<sup>1</sup> This unique three-letter substitute for the party's name is used to anonymize the Judgment and bears no resemblance to the party's real name or other identifying characteristics.

**JUDGE NASSIB G. ZIADÉ, PRESIDING.**

1. AAH, a former staff member of an Office of the United Nations, contested the decision of the Administration to impose on him the disciplinary measure of dismissal.
2. The United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued a Judgment (UNAT Judgment),<sup>2</sup> affirming the earlier Judgment of the United Nations Dispute Tribunal (UNDT or Dispute Tribunal),<sup>3</sup> which had dismissed AAH's application as not receivable *ratione temporis*.
3. AAH filed an application for revision of the UNAT Judgment with the Appeals Tribunal.
4. For the reasons set out below, the Appeals Tribunal dismisses the application for revision.

**Facts and Procedure**

5. The Dispute Tribunal issued its Judgment dismissing AAH's application on the ground that it was not receivable because the Applicant did not file it within the required 90 calendar days after he received the challenged administrative decision.
6. AAH filed an appeal of the UNDT Judgment which the Appeals Tribunal subsequently dismissed.

*The UNAT Judgment*

7. The Appeals Tribunal held that the UNDT did not err in denying AAH's request to waive the deadline for filing his application to the Dispute Tribunal.
8. The UNAT also denied AAH's request for anonymity. It determined that the issue presented in his appeal was purely procedural and jurisdictional and did not involve any personal data which must be protected.

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<sup>2</sup> Judgment No. 2023-UNAT-1406.

<sup>3</sup> Judgment No. UNDT/2022/104.

*Subsequent procedure before the Appeals Tribunal*

9. On 14 January 2024, AAH filed an application for revision of the UNAT Judgment, to which the Secretary-General responded on 5 February 2024.

**Considerations**

10. Article 11(1) of the Appeals Tribunal Statute (Statute) authorizes this Tribunal to revise a judgment on the “basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Appeals Tribunal and to the party applying for revision”. This Tribunal has repeatedly emphasized that these are “strict criteria” which must be precisely met before a judgment may be revised on this ground.<sup>4</sup> An application for revision is not a substitute for an appeal, and its purpose should not be to litigate the case *de novo* merely because the applicant is dissatisfied with the outcome of the judgment.<sup>5</sup> The scope and limitations of this provision of the Statute, and the related Article 24 of the Appeals Tribunal Rules of Procedure, vindicate the vital interest in the finality of judgments, which is essential to the United Nations internal justice system and embodied in the doctrine of *res judicata*.

11. Crucially, facts which occur *after* a judgment has been rendered cannot be the basis for revision of a judgment under Article 11(1) of the Statute and Appeals Tribunal jurisprudence. Put another way, an applicant for revision of a judgment must establish the existence of a decisive fact which existed at the time of the judgment but was only discovered subsequently.<sup>6</sup>

12. The application here does not meet these strict criteria. In his application for revision, the Applicant relies on a medical crisis which occurred after the publication of the UNAT Judgment. However, he now contends that this medical event is a new decisive fact providing grounds to revise the UNAT Judgment. He submits, as evidence, recent medical reports. The dates of the events referred to in the reports (as well as the dates of the reports) fall after the UNAT Judgment for which he seeks revision. These new facts, which all post-date the UNAT Judgment at issue, cannot be the basis to revise or reconsider our prior determination.

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<sup>4</sup> *Masri v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-163, paras. 11-12.

<sup>5</sup> *Howard Andrew Giles v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1224, para. 25; *Elasoud v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-391, para. 13.

<sup>6</sup> *Carolina Larriera v. United Nations Joint Staff Pension Board*, Judgment No. 2022-UNAT-1193, paras. 24-26; *Marius Mihail Russo-Got v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1236, para. 17.

13. Subsequent medical records indicating a change in the Applicant's condition after the prior UNAT Judgment are not grounds to reconsider that Judgment. Accordingly, there is no basis to revise the UNAT Judgment.

14. The Applicant also requests that he be granted anonymity in both the UNAT Judgment and the present application. For the reasons set forth above, there is no basis to grant such relief *nunc pro tunc* with respect to the prior UNAT Judgment. Moreover, such relief would be inconsistent with the overarching mandate that the internal justice system operates in a transparent manner.<sup>7</sup> Absent extraordinary circumstances, staff members who elect to raise claims for adjudication within the United Nations' internal justice system should expect that their names may be published along with the disposition of their claims. With respect to the present Judgment, however, the Applicant has submitted records from medical providers, dated 7 and 9 January 2024, which provide both diagnoses and prognoses and specifically support a finding of a present and urgent medical need for anonymity at this stage of proceedings. On balance, we find that this particularized showing outweighs the need for transparency. On the particular facts presented here, and given the limited scope of the issues presented, the Applicant's request for anonymity will be granted for this Judgment only.

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<sup>7</sup> *Pirnea v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-456, paras. 18 and 20.

**Judgment**

15. AAH's application for revision of the UNAT Judgment is dismissed.

Original and Authoritative Version: English

Dated this 22<sup>nd</sup> day of March 2024 in New York, United States.

*(Signed)*

Judge Ziadé, Presiding

*(Signed)*

Judge Colgan

*(Signed)*

Judge Sheha

Judgment published and entered into the Register on this 15<sup>th</sup> day of April 2024 in New York, United States.

*(Signed)*

Juliet E. Johnson, Registrar