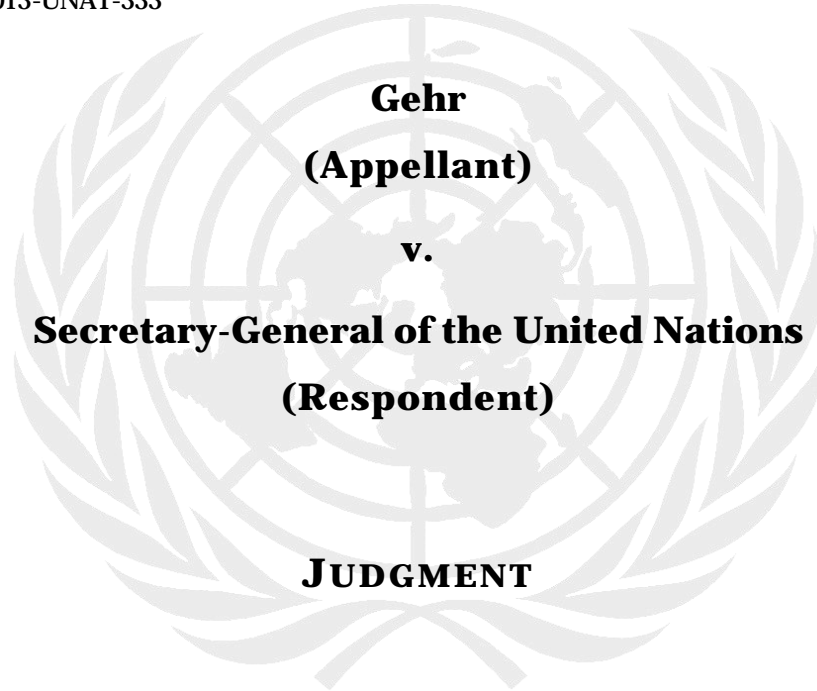




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2013-UNAT-333



Before:	Judge Sophia Adinyira, Presiding Judge Richard Lussick Judge Rosalyn Chapman
Case No.:	2012-363
Date:	21 June 2013
Registrar:	Weicheng Lin

Counsel for Appellant:	Self-represented
Counsel for Respondent:	Stéphanie Cartier

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by Mr. Walter Gehr against Judgment No. UNDT/2012/106, rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 13 July 2012 in the case of *Gehr v. Secretary-General of the United Nations*. Mr. Gehr appealed on 18 August 2012, and the Secretary-General answered on 19 October 2012.

Facts and Procedure

2. Mr. Gehr challenges a Judgment on his application for interpretation of Judgment No. UNDT/2011/178, which was issued on 18 October 2011. In the latter Judgment, the UNDT granted Mr. Gehr's application and ordered that the classification decision in respect of the newly-created P-5 post of Senior Legal Advisor within the Office of the Chief of the Terrorism Prevention Branch to which he had been reassigned should be rescinded because there was no valid delegation of authority for the United Nations Office in Vienna to classify such a post. However, the UNDT rejected all other claims by Mr. Gehr.

3. On 5 November 2011, Mr. Gehr filed with the UNDT an application for interpretation of Judgment No. UNDT/2011/178.

4. Mr. Gehr was separated from service on 31 December 2011 upon the expiry of his fixed-term appointment.

5. In Judgment No. UNDT/2012/106, the UNDT rejected Mr. Gehr's application for interpretation as not receivable. In the view of the UNDT, the operative part of the underlying judgment was "not ambiguous or misleading as to its practical implications".

Submissions

Mr. Gehr's Appeal

6. Mr. Gehr submits that the UNDT arbitrarily dismissed his application for interpretation of Judgment UNDT/2011/178, as it erred in both fact and procedure. The UNDT erred in its conclusions that Mr. Gehr sought justification and reversal of the Judgment. On the contrary, Mr. Gehr submits that his purpose was solely to obtain clarification of the Judgment.

7. Furthermore, Mr. Gehr submits that by dismissing his application the UNDT failed to exercise the jurisdiction vested in it. According to Mr. Gehr, Judgment No. UNDT/2011/178 needs interpretation as it gives rise to uncertainty about its import on the title, duties and responsibilities of his former post.

8. Mr. Gehr, thus, requests the Appeals Tribunal to declare his application receivable before the UNDT and to have Judgment No. UNDT/2011/178 interpreted.

The Secretary-General's Answer

9. The Secretary-General submits that the UNDT correctly concluded that the operative part of Judgment No. UNDT/2011/178 was not ambiguous or misleading, and that the application for interpretation was therefore not receivable.

10. Additionally, the Secretary-General submits that Mr. Gehr has not established any errors warranting a reversal of the Judgment. He could not establish that the underlying judgment “gives rise to uncertainty about its import”.

11. The Secretary-General, thus, requests the Appeals Tribunal to affirm the UNDT Judgment and to dismiss the appeal in its entirety.

Considerations

12. In *Tadonki*,¹ the Appeals Tribunal held:

The word “judgment” in article 2(1) of the Appeals Tribunal’s Statute includes a decision or order obtained in an action or in proceedings properly so called. It does not include the subsequent interpretation of such judgment; the literal meaning of the notion “interpret” is “to explain the meaning of something” and the word “interpretation” is “the particular way in which something is understood or explained”.

13. The exercise of interpretation under Article 30 of the UNDT Rules of Procedure is not an avenue for review or the basis for a fresh judgment. Any dissatisfaction with the meaning of a judgment by the UNDT may be raised in an appeal against the substantive judgment.

¹ *Tadonki v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-010, para. 7.

14. A party to a UNDT proceeding may choose to request an interpretation of the underlying judgment or appeal the underlying judgment to the Appeals Tribunal, but he or she cannot first request the UNDT for an interpretation and then appeal the interpretation judgment to the Appeals Tribunal.

15. As such, UNDT Judgment No. UNDT/2012/106 was merely an explanation of its Judgment No. UNDT/2011/178. It is not a fresh decision or judgment within the meaning of Article 2(1) of UNAT Statute.

16. The appeal is therefore not receivable. This is another appeal from Mr. Gehr that lacks merit. He has already appealed seven UNDT judgments, with two under review. It is appropriate now to award costs against Mr. Gehr pursuant to the warning in Judgment No. 2013-UNAT-294, *Gehr v. Secretary-General of the United Nations*, and Article 9(2) of the Statute of the Appeals Tribunal that provides: "Where the Appeals Tribunal determines that a party has manifestly abused the appeals process, it may award costs against that party."

17. We will accordingly award cost of USD 100 against Mr. Gehr, in favour of the Secretary-General of the United Nations.

18. The costs are to be paid to the Registry of the Appeals Tribunal within 30 days after the publication of this Judgment/service of the said Judgment on him.

Judgment

19. The appeal is dismissed.

20. Mr. Gehr is ordered to pay costs of USD 100 within 30 days of the issuance of this Judgment. He will be refused access to prosecute any case before the Appeals Tribunal if he does not comply with this Order.

Original and Authoritative Version: English

Done in New York, United States.

(Signed)
Judge Adinyira, Presiding
21 June 2013

(Signed)
Judge Lussick
28 June 2013

(Signed)
Judge Chapman
28 June 2013

Entered in the Register on this 26th day of August 2013 in New York, United States.

(Signed)
Weicheng Lin, Registrar