



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

Judgment No. 2013-UNAT-394



**Al-Mulla
(Applicant)**
v.
**Secretary-General of the United Nations
(Respondent)**

**JUDGMENT
ON APPLICATION FOR REVISION**

Before:	Judge Inés Weinberg de Roca, Presiding Judge Mary Faherty Judge Sophia Adinyira
Case No.:	2013-490
Date:	17 October 2013
Registrar:	Weicheng Lin

Counsel for Applicant: Winston Sims
Counsel for Respondent: Wambui Mwangi

Facts and Procedure

1. On 12 September 2012, the United Nations Appeals Tribunal (Appeals Tribunal) issued Judgment No. 2012-UNAT-226 in the case of *Al-Mulla v. Secretary-General of the United Nations*. In its Judgment, the Appeals Tribunal dismissed Mr. Al-Mulla's appeal and affirmed the findings and conclusions of the United Nations Dispute Tribunal (UNDT or Dispute Tribunal).
2. On 29 April 2013, Counsel for Mr. Al-Mulla filed an application for revision of Judgment No. 2012-UNAT-226. In the application, Counsel for Mr. Al-Mulla referred to numerous annexes but did not attach any of them.
3. On 1 May 2013, in response to the Registry's request for annexes, Counsel for Mr. Al-Mulla promised to forward the requested annexes the next day. However, the Registry did not hear or receive anything from Counsel for Mr. Al-Mulla.
4. In an e-mail dated 14 May 2013 to the Registry, Counsel for Mr. Al-Mulla apologized and asked for an extension of three weeks so as to permit him to provide the annexes.
5. In Order No. 141 (2013) dated 21 June 2013, the Appeals Tribunal rejected Mr. Al-Mulla's request for additional time to submit annexes. On 18 July 2013, Mr. Al-Mulla's application for revision, as filed on 29 April 2013 without annexes, was forwarded to the Secretary-General. On 16 August 2013, the Secretary-General submitted his comments.

Submissions

Mr. Al-Mulla's Application

6. Mr. Al-Mulla submits that, towards the end of March 2013, he and Counsel first became aware of the Secretary-General's misrepresentation of the facts concerning the management instruction issued by the United Nations Office on Drugs and Crime (UNODC) UNODC/MI/2007/2 "Projects as approved by UNODC representatives" as the applicable policy, and the adoption of those facts by the Dispute Tribunal and the Appeals Tribunal. He could not have known that the correct management instruction UNODC/MI/2007/1

“Programme Project Committee (PPC)”, would not have come to the attention of the Dispute Tribunal and the Appeals Tribunal.

7. Mr. Al-Mulla further submits that, as the three Judges of the Appeals Tribunal failed to mention or address various aspects of the facts, law and arguments in respect of his case, he can only conclude that the Judges never had access to those factual and legal aspects of the case. He could not have known this decisive fact prior to the issuance of the Judgment under appeal.

Secretary-General’s Comments

8. The Secretary-General submits that Mr. Al-Mulla’s application for revision is not receivable, *ratione temporis*. He notes that the Registry served Mr. Al-Mulla and his Counsel with a copy of Judgment No. 2012-UNAT-226 on 13 September 2012. On that day Mr. Al-Mulla was made aware of the purportedly decisive facts that he now relies on as the basis for his application for revision. In accordance with Article 11(1) of the Statute of the Appeals Tribunal, Mr. Al-Mulla had 30 days, i.e., until 15 October 2012, to file an application for revision. However, he waited until 29 April 2013, over six months beyond the expiration of the time limit, to file his application.

9. Alternatively, the Secretary-General submits that Mr. Al-Mulla’s various contentions fail to warrant a revision of the Judgment at issue, as he has not established a decisive fact that was not known to him or the Appeals Tribunal at the time the Judgment was rendered. Mr. Al-Mulla argued his case before the UNDT and the Appeals Tribunal. He annexed both policy documents UNODC/MI/2007/1 and UNODC/MI/2007/2 to his application to the Dispute Tribunal, but did not indicate that UNODC/MI/2007/2 was not applicable. In the view of the Secretary-General, any additional arguments that Mr. Al-Mulla wishes to make should have been raised before the Appeals Tribunal when he appealed the judgment of the Dispute Tribunal, and not months after the Appeals Tribunal rendered its Judgment.

Considerations

10. Article 11(1) of the Statute of the Appeals Tribunal, which is applicable here, states:

Subject to article 2 of the present statute, either party may apply to the Appeals Tribunal for a revision of a judgement on the basis of the discovery of a decisive fact which was, at the time the judgement was rendered, unknown to the Appeals Tribunal and to the party applying for revision, always provided that such

ignorance was not due to negligence. The application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

11. Article 24 of the Rules of Procedure of the Appeals Tribunal states, with respect to revision of judgments:

Either party may apply to the Appeals Tribunal, on a prescribed form, for a revision of a judgement on the basis of the discovery of a decisive fact that was, at the time the judgement was rendered, unknown to the Appeals Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application for revision will be sent to the other party, who has 30 days to submit comments to the Registrar on a prescribed form. The application for revision must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

12. In the instant case, Mr. Al-Mulla was served with the Judgment on 13 September 2012. His application for revision was signed on 29 April 2013, more than six months beyond the time limit.

13. The Appeals Tribunal has repeatedly held that it “has been strictly enforcing, and will continue to strictly enforce, the various time limits”.¹

14. An application seeking review of a final judgment rendered by the Appeals Tribunal can only succeed if it fulfills the strict and exceptional criteria established under Article 11 of the Statute of this Tribunal.²

Judgment

15. The application is dismissed.

¹ *Mezoui v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-043, para. 21.

² *Beaudry v. Secretary-General of the United Nations*, Judgment No. 2011-UNAT-129.

Original and authoritative version: English

Dated this 17th day of October 2013 in New York, United States.

(Signed)

Judge Weinberg de Roca,
Presiding

(Signed)

Judge Faherty

(Signed)

Judge Adinyira

Entered in the Register on this 19th day of December 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar