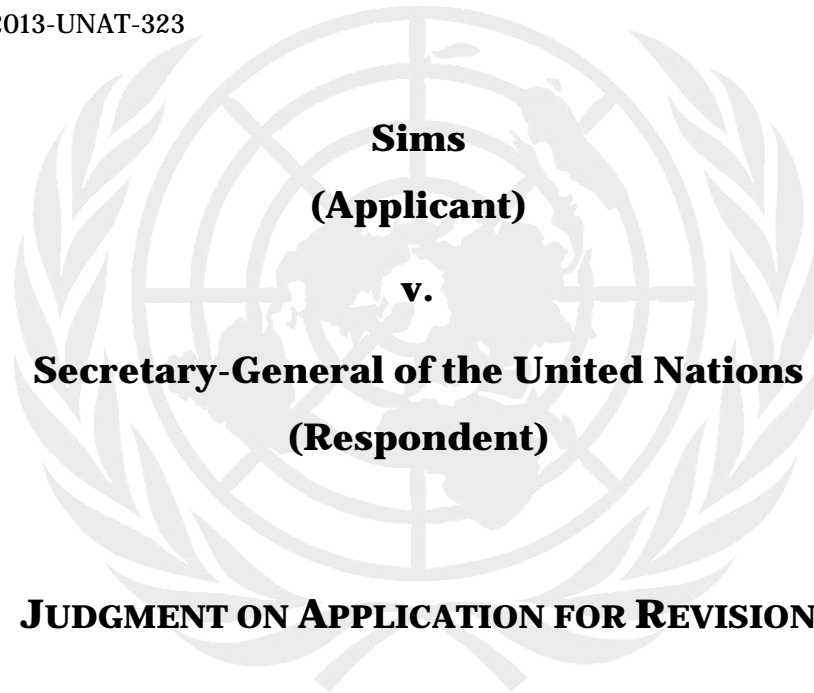




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2013-UNAT-323



**Sims
(Applicant)**

v.

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

JUDGMENT ON APPLICATION FOR REVISION

Before:	Judge Inés Weinberg de Roca, Presiding Judge Sophia Adinyira Judge Jean Courtial
Case No.:	2010-157
Date:	28 March 2013
Registrar:	Weicheng Lin

Counsel for Applicant: Self-represented

Counsel for Respondent: Wambui Mwangi

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for revision of Judgment No. 2011-UNAT-154 issued by this Tribunal on 8 July 2011, filed by Mr. Winston Sims on 23 September 2011. The Secretary-General filed his comments on 9 November 2011.

Facts and Procedure

2. Mr. Sims challenged before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) the restriction placed on his access to the United Nations Office at Vienna (UNOV), where he volunteered as a retiree member of the Vienna Panel of Counsel (Vienna POC).

3. The Dispute Tribunal rejected Mr. Sims' application and found that a retiree who volunteered as counsel did not have a contractual relationship with the United Nations and had thus no right to challenge the decisions of the Secretary-General.

4. Mr. Sims appealed. In its Judgment dated 8 July 2011, the Appeals Tribunal affirmed the UNDT judgment.

Submissions

Mr. Sims

5. Mr. Sims submits that several facts were unknown to himself and the Appeals Tribunal at the time the Judgment was rendered, including (i) the fact that he had requested that the Appeals Tribunal order the Secretary-General to disclose specific documents, which would reveal the reasons for the restriction placed on his access to UNOV; (ii) the United Nations Safety and Security Service Standard Operational Procedures, which were the basis for his appeal; and, (iii) a letter from the Director, Division of Management, UNOV, which, he alleges, proves that the Director had initiated action to remove him from Vienna POC and to bar him from serving as counsel in any aspect of the internal justice system.

6. Mr. Sims submits that these facts must have been unknown to the Appeals Tribunal as, otherwise, it would have mentioned them in its Judgment. Mr. Sims contends that he could not have been aware of this fact.

Secretary-General

7. The Secretary-General submits that the Applicant has not identified any legally sustainable ground that would warrant review of the Appeals Tribunal Judgment. The Secretary-General notes that the Appeals Tribunal did not proceed to examine the merits of Mr. Sims' case, after finding the case not receivable.

8. The Secretary-General notes that all the facts adduced by the Applicant were already known to the Appeals Tribunal, and submits that there is no basis to grant Mr. Sims' application for revision of judgment.

Considerations

9. Article (11)1 of the Statute of the Appeals Tribunal 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.

10. This Tribunal held on appeal that the UNDT did not err when it decided that the petition by a former staff member to have access to the UNOV premises was not among the listed grounds of jurisdiction of the Dispute Tribunal and was therefore not receivable.

11. Mr. Sims requests revision of our decision based on new evidence unknown at the time. He claims several facts were unknown to himself and the Appeals Tribunal at the time the Judgment was rendered.

12. Article 11(1) of the Statute of the Appeals Tribunal would apply were the case receivable. It would then be for the Tribunal to decide on the evidence. However, as neither the UNDT nor the Appeals Tribunal has jurisdiction to hear Mr. Sims' case, the new evidence is irrelevant.

13. Article 2(b) of the Statute of the Appeals Tribunal establishes that the Appeals Tribunal shall be competent to hear and pass judgment on an appeal filed against a judgment rendered by the Dispute Tribunal in which it is asserted that the Dispute Tribunal has failed to exercise jurisdiction vested in it. However, in the instant case, the UNDT has not failed to exercise jurisdiction.

Judgment

14. The application for revision is denied.

Original and Authoritative Version: English

Dated this 28th day of March 2013 in New York, United States and Paris, France.

(Signed)

Judge Weinberg de Roca,
Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Courtial

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

(Signed)

Weicheng Lin, Registrar