



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

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Judgment No. 2019-UNAT-963

**Awe  
(Applicant)**

**v.**

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

**JUDGMENT ON APPLICATIONS FOR INTERPRETATION AND  
EXECUTION OF JUDGMENT**

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Before: Judge Graeme Colgan, Presiding  
Judge Dimitrios Raikos  
Judge Sabine Knierim

Case Nos.: 2019-1262 & 1286

Date: 25 October 2019

Registrar: Weicheng Lin

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Counsel for Mr. Awe: Self-represented

Counsel for Secretary-General: Wambui Mwangi/Nathalie Defrasne

*Reissued for technical reasons on 27 January 2020*

**JUDGE GRAEME COLGAN, PRESIDING.**

1. Ekundayo Awe requests leave to withdraw his applications for execution and interpretation of two United Nations Appeals Tribunal (Appeals Tribunal) Judgments. We grant leave to withdraw the applications and direct the Registrar to close the cases.

**Facts and Procedure**

2. On 18 November 2016, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi issued Judgment No. UNDT/2016/206 in the case of *Awe v. Secretary-General of the United Nations*.

3. The Secretary-General appealed the UNDT Judgment on the grounds that the UNDT erred in law by requiring the Special Representative of the Secretary-General to refer for disciplinary action the case of the Chief of Staff (COS) of the United Nations Assistance Mission for Iraq (UNAMI) to the Assistant Secretary-General, Office of Human Resources Management, and by awarding Mr. Awe USD 3,000 as compensation for the lack of such a referral. The Secretary-General submitted that the UNDT also erred in law by ruling that the contents of the minutes of the Senior Management Team (SMT) meeting held at UNAMI on 22 January 2014 had to be retracted in order to fully address Mr. Awe's complaint and by awarding USD 15,000 for "stress and moral injury" allegedly caused by the offending remarks in the meeting minutes.

4. In Judgment No. 2017-UNAT-774, the Appeals Tribunal held that the UNDT did not err in ordering the removal of the offending references to Mr. Awe in the meeting minutes and the notification of all recipients of those minutes of a Fact-Finding Panel's [FFP] findings. At the same time, the Appeals Tribunal reduced the amount of compensation that the UNDT had awarded Mr. Awe from USD 15,000 to USD 5,000 and vacated the UNDT's award for procedural error.

5. On 1 October 2017, Mr. Awe filed an application for interpretation of Judgment No. 2017-UNAT-774, which the Appeals Tribunal disposed of by Judgment No. 2018-UNAT-827 rendered on 22 March 2018. The Appeals Tribunal ordered the Secretary-General to send a corrected version of the meeting minutes and of the FFP's findings to all the recipients of the 22 January 2014 meeting minutes, including Ms. Mikulasova. On 23 November 2017, Mr. Awe filed an application for correction of Judgment No. 2017-UNAT-774. On 29 June 2019, the Appeals Tribunal issued Judgment No. 2018-UNAT-845 dismissing Mr. Awe's application for correction.

6. On 20 May 2019, Mr. Awe filed a second application for interpretation of Judgment No. 2017-UNAT-774 and the Secretary-General submitted his comments on 21 June 2019. On 1 July 2019, Mr. Awe filed an application for execution of Judgment No. 2018-UNAT-827 and the Secretary-General filed his comments on 8 August 2019.

7. On 8 August 2019, Mr. Awe filed two motions requesting withdrawal of his applications for interpretation and execution, respectively. On 14 August 2019, the Secretary-General advised that he had no comments on Mr. Awe's motions.

### **Considerations**

8. It is necessary now to deal only with Mr. Awe's motions to withdraw his two applications. In the circumstances we grant leave to withdraw the applications. We wish, however, to make the following comments for the benefit of the parties and, in particular for the Secretary-General if he encounters a similar situation in the future, for the Respondent's benefit as employer.

9. Mr. Awe's case has a long history in both the UNDT and this Tribunal. In the current circumstances it is unnecessary to further describe these events. The consequence of them, however, was that the Respondent was directed by the Appeals Tribunal to circulate revised corrected minutes of a meeting to those staff members who had received the original incorrect minutes. Adverse references to Mr. Awe in the original minutes were found to have been unjustified and a part of his remedy was the correction and notification of this injustice by the circulation of revised and corrected minutes.

10. There was a time lapse between the circulation of the original minutes and compliance by the Respondent with the direction to circulate revised and corrected minutes. During that time lapse a number of the recipients of the original minutes had left the Organization. The Organization's e-mail addresses of some of those people had been deactivated or otherwise discontinued, so that they did not receive the revised minutes. In the case of others who had left the Organization, it appears that their e-mail addresses were still active although it cannot be certain whether such persons, having left the Organization, could or would have accessed their former employer's e-mails.

11. After filing his two applications (one seeking an interpretation of Judgment No. 2017-UNAT-774 and the other seeking the enforcement of Judgment No. 2018-UNAT-827), Mr. Awe was apparently satisfied that the Respondent had complied by making proper efforts to circulate the revised minutes to all concerned.

12. From the information available to us, it appears unfortunately that Mr. Awe was not kept apprised of the Respondent's efforts to advise the recipients of the minutes of their revision. Accordingly, Mr. Awe reached the understandable conclusion that the Respondent had not complied with the Appeals Tribunal's directions. Again understandably, he made the applications to this Tribunal that he did. The Respondent having used e-mail to comply with those directions (a communication methodology which we do not criticise), it seems to us it would have been easy and helpful for the Respondent to have copied Mr. Awe into each of the relevant e-mails sent affecting this matter. Even in those cases where former staff did not want their private e-mail addresses disclosed to others, the Respondent could still have achieved both objectives without difficulty, for example by using the "blind copy" or "BCC" function of the e-mail address system.

13. As it clearly became apparent to the Respondent that some recipients sought privacy, Mr. Awe could also have been kept apprised of the need to send some e-mails to former staff at their private email addresses. As the Respondent has done for the purpose of these applications, those private e-mail addresses have not been disclosed to others. However, as we infer Mr. Awe has done for the purpose of these applications, he has accepted the Respondent's assurances that those e-mails were sent. There is no reason for us to think that had the Respondent done likewise at an earlier stage of this unfortunate saga, Mr. Awe would not also then have accepted its assurances that those others had been e-mailed, rather than being left to think that no-one had.

14. We offer these comments in a spirit of helpfulness and for the future avoidance of multiple applications to this Tribunal.

**Judgment**

15. The Registrar is directed to close the cases.

Original and Authoritative Version: English

Dated this 25<sup>th</sup> day of October 2019 in New York, United States.

*(Signed)*

Judge Colgan, Presiding

*(Signed)*

Judge Raikos

*(Signed)*

Judge Knierim

Entered in the Register on this 20<sup>th</sup> day of December 2019 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar