



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

Judgment No. 2020-UNAT-999

**Wilson
(Applicant)**

v.

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

**JUDGMENT ON APPLICATION
FOR CORRECTION OF JUDGMENT**

Before: Judge Sabine Knierim, Presiding
Judge John Raymond Murphy
Judge Kanwaldeep Sandhu

Case No.: 2019-1312

Date: 27 March 2020

Registrar: Weicheng Lin

Counsel for Mr. Wilson: Sètondji Roland Adjovi/George G. Irving

Counsel for Secretary-General: Nathalie Defrasne

JUDGE SABINE KNIERIM, PRESIDING.

1. Mr. Anthony Kreil Wilson has filed an application for correction of Judgment No. 2019-UNAT-940 with the United Nations Appeals Tribunal (Appeals Tribunal). For reasons set forth below, we grant his application.

Facts and Procedure

2. On 21 December 2018, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York issued Judgment No. UNDT/2018/136 in the case of *Wilson v. Secretary-General of the United Nations*. In paragraphs 10 and 11 of the “Factual and procedural history” section, the UNDT noted that:

... By Order No. 241 (NY/2016) issued on 19 October 2016, the application for suspension of action was rejected on the ground that the contested decision was already implemented since the selected candidate had accepted the offer for the post.

... On 21 October 2016, the Applicant received the MEU’s response dated 18 October 2016, upholding the contested decision.

3. On 18 February 2019, the Secretary-General appealed the UNDT Judgment to the Appeals Tribunal, and Mr. Wilson filed an answer on 8 March 2019.¹

4. The case was placed on the docket of the 2019 Summer Session of the Appeals Tribunal, which started on 17 June 2019 and ended on 28 June 2019. While the Appeals Tribunal was in session, the Dispute Tribunal issued a corrigendum, dated 18 June 2019, to Judgment No. UNDT/2018/136, in which the UNDT corrected paragraph 11 to read:

... On 21 November 2016, the Applicant received the MEU’s response dated 18 November 2016, upholding the contested decision.

5. However, this corrigendum was not brought to the attention of the Appeals Tribunal. The Appeals Tribunal continued to use Judgment No. UNDT/2018/136 as the basis for its review and deliberations and for its Judgment No. 2019-UNAT-940 decided on 28 June 2019 and issued on 19 August 2019. In paragraph 8 of the “Facts and Procedure” section, the Appeals Tribunal summarized as follows:

¹ Mr. Wilson also appealed the same UNDT Judgment by way of a cross-appeal dated 20 February 2019. But he later withdrew his cross-appeal.

... By Order No. 241 (NY/2016) dated 19 October 2016, the UNDT rejected Mr. Wilson's application for suspension of action on the ground that the contested decision had already been implemented since the selected candidate, Ms. SS, had accepted the offer of the post. Two days later, Mr. Wilson received a response from the Management Evaluation Unit (MEU), upholding the contested decision.

Submissions

6. In his application for correction of judgment, Mr. Wilson requests that the Appeals Tribunal take note of the correction that the Dispute Tribunal has made to paragraph 11 of Judgment No. UNDT/2018/136 and amend paragraph 8 of its own Judgment No. 2019-UNAT-940 accordingly.

7. The Secretary-General has advised that he has no comments on Mr. Wilson's application for correction of dates in the Appeals Tribunal Judgment.

Considerations

8. The application for correction succeeds. Article 11(2) of the Appeals Tribunal Statute provides:

Clerical or arithmetical mistakes, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own motion or on the application of any of the parties.

9. Paragraph 8 of Judgment No. 2019-UNAT-940 contains an error with regard to the date Mr. Wilson received a response from the MEU. While the Judgment states that he received this response two days after 19 October 2016, hence on 21 October 2016, the MEU response itself was dated 18 November 2016, so Mr. Wilson could not have received it on 21 October 2016. Following Mr. Wilson's consistent position during the proceedings and the corrected UNDT Judgment, we are convinced that he received the MEU response on 21 November 2016.

10. The Appeals Tribunal finds it necessary to correct this error as the date of the receipt of the MEU response is a crucial factor for the time limits under Article 8(1)(d)(i)(a) of the UNDT Statute for filing an application to the UNDT. Had Mr. Wilson received the MEU response on 21 October 2016, his 7 February 2017 application to the UNDT would have been outside the 90-day time limit and thus irreceivable *ratione temporis*. The correction of the

Judgment makes clear that the application was filed within the statutory time limit which began to run on 21 November 2016, the date on which Mr. Wilson received the MEU response.

Judgment

11. It is hereby ordered:

i) Paragraph 8 of Judgment No. 2019-UNAT-940 is to read as follows:

By Order No. 241 (NY/2016) dated 19 October 2016, the UNDT rejected Mr. Wilson's application for suspension of action on the ground that the contested decision had already been implemented since the selected candidate, Ms. SS, had accepted the offer of the post. On 21 November 2016, Mr. Wilson received a response dated 18 November 2016 from the Management Evaluation Unit (MEU), upholding the contested decision.

ii) The parties shall receive a revised version of the Judgment.

iii) The published Judgment on the website of the Office of Administration of Justice shall be corrected accordingly.

Original and Authoritative Version: English

Dated this 27th day of March 2020.

(Signed)

Judge Knierim, Presiding
Hamburg, Germany

(Signed)

Judge Murphy
Cape Town, South Africa

(Signed)

Judge Sandhu
Vancouver, Canada

Entered in the Register on this 19th day of June 2020 in New York, United States.

(Signed)

Weicheng Lin, Registrar