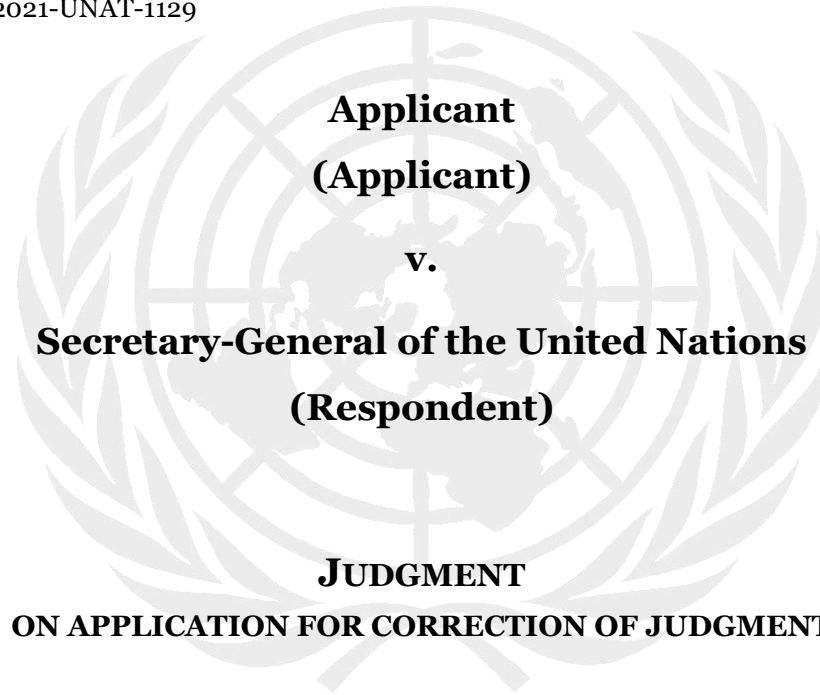




**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Judgment No. 2021-UNAT-1129



**Applicant  
(Applicant)**

**v.**

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

**JUDGMENT  
ON APPLICATION FOR CORRECTION OF JUDGMENT**

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Before:	Judge Kanwaldeep Sandhu, Presiding Judge Martha Halfeld Judge Dimitrios Raikos
Case No.:	2020-1424
Date:	25 June 2021
Registrar:	Weicheng Lin

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Counsel for Applicant:	Self-represented
Counsel for Respondent:	Noam Wiener

**JUDGE KANWALDEEP SANDHU, PRESIDING.**

1. On 27 March 2020, the United Nations Appeals Tribunal (Appeals Tribunal) issued Judgment No. 2020-UNAT-1001 (the Impugned Judgment), dismissing the appeal of the present Applicant.<sup>1</sup> The Applicant now applies for a Correction of Judgment regarding an incorrect reference to the title of one of his superiors. He also requests the Tribunal to elaborate on its finding of no-fault on the part of the Office for Internal Oversight Services (OIOS), for not taking any disciplinary action against said superior. We allow the correction regarding the title of the superior but deny the remainder of the application, which amounts to an application for interpretation of the Judgment.

**Facts and Procedure**

2. On 23 July 2019, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) issued Judgment No. UNDT/2019/129/Corr.1 on the Applicant's application contesting the decision by the Under-Secretary-General for OIOS (USG/OIOS) not to pursue disciplinary action against the Deputy Director of the Investigations Division, OIOS (ID/OIOS).<sup>2</sup> The Dispute Tribunal held the investigation process was proper, but it was lengthy and cumbersome. On this basis, the Dispute Tribunal partially granted the application and awarded the Applicant moral damages.<sup>3</sup>

3. In the Impugned Judgment, the Appeals Tribunal dismissed the Applicant's appeal of the Dispute Tribunal's Judgment and held that: (i) with the exception of the time it took to conclude the investigation, for which the Applicant received compensation, there were no procedural flaws in the investigation; (ii) the Secretary-General properly exercised his discretion when he decided not to initiate a disciplinary process, and (iii) the compensation amount set by the UNDT for the delay in the investigation was "fair and reasonable."<sup>4</sup>

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<sup>1</sup> *Applicant v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-1001 dated 27 March 2020 (Impugned Judgment).

<sup>2</sup> *Applicant v. Secretary-General of the United Nations*, Judgment No. UNDT/2019/129/Corr.1 (DT Judgment).

<sup>3</sup> *Ibid*, para. 107.

<sup>4</sup> Impugned Judgment, paras. 38, 39 and 43.

4. In the Impugned Judgment, the Appeals Tribunal stated that “the Appellant filed a complaint of harassment and abuse of authority, pursuant to [Secretary-General’s Bulletin ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority)] against the Deputy Director, ID/OIOS, his *First Reporting Officer*.”<sup>5</sup> The Impugned Judgment contains other references to the Deputy Director, ID/OIOS, as the Applicant’s First Reporting Officer.

### **Submissions**

#### **Application for Correction of Judgment**

5. The Applicant seeks correction of the Judgment on the premise that the Appeals Tribunal had mistakenly identified the Deputy Director, ID/OIOS, as his First Reporting Officer and supervisor. The Deputy Director, ID/OIOS, was neither his First nor Second Reporting Officer.

6. The Applicant also requests the Appeals Tribunal to clarify why certain actions by the Deputy Director, ID/OIOS, did not amount to prohibited conduct under ST/SGB/2008/5, including Section 1.4 on abuse of authority.

#### **The Respondent’s Observations**

7. The Secretary-General has no objection to the correction request pertaining to the accidental slip on the identification of the First Reporting Officer.

8. The Secretary-General objects to the Applicant’s request for clarification on the scope of the Impugned Judgment on the administrative discretion regarding the initiation of disciplinary proceedings.

9. The Secretary-General says this a veiled attempt by the Applicant to relitigate *res judicata*. The Secretary-General thus submits that the Appeals Tribunal should reject any request not in accordance with Article 11 of the Appeals Tribunal Statute (Statute).

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<sup>5</sup> Impugned Judgment, para. 5 (emphasis added).

### Considerations

10. Article 11 of the Statute provides that “[c]lerical 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.”

11. Article 26 of the Appeals Tribunal Rules of Procedure (Rules) provides in nearly identical terms: “Clerical or arithmetical mistakes, or errors arising from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own initiative or on the application by any of the parties on a prescribed form.”

12. We find the reference to the Deputy Director, ID/OIOS, in the Impugned Judgment as the First Reporting Officer is an accidental error and is factually incorrect. We find this error has little or no bearing on the outcome of the Impugned Judgment in this case. The role of the Appeals Tribunal is to judicially review the Dispute Tribunal’s decisions for any errors of fact, law, or jurisdiction. In doing so, the Appeals Tribunal relies largely on the findings of fact of the Dispute Tribunal. The error in referring to the Deputy Director, ID/OIOS, in the Judgment does not have any bearing on our finding that the Dispute Tribunal did not err in the disposition of this case.

13. As for the Applicant’s request for elaboration, Article 11 of the Statute provides that “[e]ither party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgement.”

14. The Applicant is not requesting for an interpretation of the meaning or scope of the judgment but rather is seeking further explanation for its weighing of the evidence and its reasons. This is a veiled attempt to relitigate the issues which is outside the scope of Article 11. The Tribunal has issued a final decision and as such, except for the limited instances outlined in Article 11, the Appeals Tribunal is now *functus officio*.

15. We find that the application is a disguised way to criticize the Impugned Judgment or to disagree with it, which is not the intent of Article 11. We have previously held that interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubts about the will of the Tribunal or the arguments leading to a decision. But if the

judgment is comprehensible, whatever the opinion the parties may have about it or its reasoning, an application for interpretation is not admissible.<sup>6</sup> This is the case here.

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<sup>6</sup> *Abbasi v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-315, para. 18.

**Judgment**

16. The application is granted in part, and Judgment No. 2020-UNAT-1001 is amended by deleting all reference to “First Reporting Officer”.

Original and Authoritative Version: English

Dated this 25<sup>th</sup> day of June 2021.

*(Signed)*

Judge Sandhu, Presiding  
Vancouver, Canada

*(Signed)*

Judge Halfeld  
Juiz de Fora, Brazil

*(Signed)*

Judge Raikos  
Athens, Greece

Entered in the Register on this 27<sup>th</sup> day of July 2021 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar