



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

Judgment No. 2024-UNAT-1488

**Abdurrahman Turk
(Applicant)**

v.

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

JUDGMENT ON APPLICATION FOR REVISION

Before:	Judge Leslie F. Forbang, Presiding Judge Gao Xiaoli Judge Abdelmohsen Sheha
Case No.:	2023-1885
Date of Decision:	25 October 2024
Date of Publication:	25 November 2024
Registrar:	Juliet E. Johnson

Counsel for Applicant:	Self-Represented
Counsel for Respondent:	Agnieszka Martin

JUDGE LESLIE F. FORBANG, PRESIDING.

1. On 4 December 2023, the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued Judgment No. 2023-UNAT-1395 in the case of *Abdurrahman Turk v. Secretary-General of the United Nations* (UNAT Judgment).
2. In the UNAT Judgment, the Appeals Tribunal dismissed Mr. Turk's appeal against Judgment No. UNDT/2022/118 which was rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal).¹ The UNAT held that the UNDT made no error in dismissing Mr. Turk's application in which he had challenged the non-renewal of his Fixed-Term Appointment (FTA).
3. On 21 December 2023, Mr. Turk filed an application for revision of the UNAT Judgment.
4. For the reasons set forth in this Judgment, the Appeals Tribunal dismisses the application.

Facts and Procedure

5. Mr. Turk was formerly a Political Affairs Officer (PAO) at the P-4 level serving in the United Nations Assistance Mission for Iraq (UNAMI). As part of a cost-cutting initiative, UNAMI decided to reduce the number of PAOs at the P-4 level from 10 to nine, and to downgrade one of the posts. A Comparative Review Panel (CRP) was convened to review the 10 PAOs at the P-4 level to determine which post would be downgraded to the P-3 level.²
6. Among the six PAOs who participated in the CRP evaluation, Mr. Turk ranked last with a total of 69 points, behind the fifth-ranked staff member at 80 points, and the highest scorer at 114 points. The CRP unanimously recommended that Mr. Turk not be retained in his post. Subsequently, Mr. Turk was notified of the non-extension of his FTA (contested decision).³
7. After the contested decision was upheld by the Management Evaluation Unit (MEU), Mr. Turk filed an application challenging it with the UNDT.
8. The UNDT dismissed Mr. Turk's application, finding that the downgrading of one of the P-4 PAO posts was lawful and that the CRP evaluation had been both procedurally and

¹ *Turk v. Secretary-General of the United Nations*, Judgment No. UNDT/2022/118 (UNDT Judgment).

² UNAT Judgment, paras. 4-6.

³ *Ibid.*, paras. 10-11.

substantively fair. The UNDT acknowledged that it was irregular that Mr. Turk's post (No. 30048407) was recommended for downgrade before the CRP had completed its work, but nonetheless that there was no impact on the CRP outcome. The UNDT found no evidence of bias in the CRP process and endorsed the Administration's position that it was not under any legal obligation to find an alternative post for Mr. Turk.⁴

9. In his appeal before the UNAT, Mr. Turk first alleged that the UNDT erred in refusing to demand the production of documents to show that the General Assembly's Fifth Committee had voted on the downgrading of his position. The UNAT rejected this claim of error, holding that the UNDT had properly exercised its discretion under Article 18(1) of the UNDT Rules of Procedure (UNDT Rules) when it determined that such documents were not relevant and would not have affected the outcome of the case.⁵

10. Second, Mr. Turk alleged that the UNDT erred in upholding the non-renewal of his FTA, which was in turn based on the outcome of the CRP evaluation. The UNAT confirmed that it was undisputed that the General Assembly had approved the UNAMI budget, which included the reclassification of one of its P-4 PAO posts, and that this was accordingly lawful.⁶ Moreover, the UNAT rejected all of Mr. Turk's arguments that the CRP evaluation was flawed as being without merit.⁷

11. Third, the UNAT affirmed the UNDT's finding that there was no evidence of discriminatory treatment of Mr. Turk in the CRP process.⁸

12. Fourth, the UNAT rejected Mr. Turk's request that the Appeals Tribunal itself gather information about his career history in order to validate the experience in his Personal History Profile (PHP) which was considered by the CRP.⁹

13. Following a thorough review of Mr. Turk's claims, the Appeals Tribunal dismissed his appeal and affirmed the UNDT Judgment.

⁴ *Ibid.*, paras. 18-22.

⁵ *Ibid.*, paras. 58-62.

⁶ *Ibid.*, paras. 70-73.

⁷ *Ibid.*, paras. 76-84.

⁸ *Ibid.*, para. 87.

⁹ *Ibid.*, paras. 89-91.

14. Mr. Turk's application for revision of the UNAT Judgment was submitted on 23 December 2023, less than three weeks after its publication. The Secretary-General filed his comments on 15 January 2024.

Submissions

Mr. Turk's Application

15. Mr. Turk alleges that the UNAT wrongly identified the issue in his appeal as the non-renewal of his FTA, when in fact he had repeatedly stated that he was appealing the downgrading of his position which did not make sense at all, in terms of budgetary savings.

16. Mr. Turk questions why another P-3 PAO was promoted to be a P-4 PAO, and why Mr. Turk's position number was assigned to another officer who had no political affairs experience. Mr. Turk alleges that these other appointments show UNAMI's ill-motivated intention to end his employment.

17. Mr. Turk alleges that he had clearly expressed his desire to cooperate with UNAMI and was open to continuing his job at the P-3 level, but no one from UNAMI approached him, further showing UNAMI's bad intentions.

18. Mr. Turk states that he discovered a document ("R/13") which was an exchange of e-mails between UNAMI and the Job Classification Unit about the downgrade for the post, but "does not have the decision itself". He also says he "found" another document ("R/14") which shows the upgrading of his position from P-3 to P-4 in 2015.¹⁰ Mr. Turk claims that this is further proof that there was no General Assembly decision to downgrade a post that had been previously upgraded, because this is not allowed in the Classification of Posts.

19. Mr. Turk submits that UNAMI's decision to separate him was unlawful because it failed to make reasonable efforts to find him a suitable alternative post. He was added to a retrenchment exercise when, according to Mr. Turk, UNAMI was obliged to find him another position, or allow him to work at his position at the P-3 level. Mr. Turk alleges that UNAMI failed to follow the Appeals Tribunal Judgment in *Timothy*.¹¹

¹⁰ Mr. Turk did not provide any documents labeled "R/13" or "R/14" to the UNAT in his application.

¹¹ *Timothy v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-847.

20. Mr. Turk submits that UNAMI's improper motive is shown by the fact that he received very little notice of his separation from the Organization, as he was notified of the non-renewal of his FTA on 1 December, and his appointment expired on 31 December 2021. He claims that if this had been a genuine process he would have been given two-three months' notice.

21. Mr. Turk requests that the UNAT, when revising the UNAT Judgment, also accept his claim for moral damages, due to the harm to his health, including his mental health deterioration. He submits that his unemployment for two years has had a negative impact on his health, and he has been forced to sell his flat, but because of the market, he cannot sell it, which has led to further stress.

22. Mr. Turk submits that he is applying for revision of the UNAT Judgment based on Article 2(1)(c) and (e) of the Appeals Tribunal Statute (Statute). He claims that the UNAT erred on a question of law and a question of fact, resulting in a manifestly unreasonable decision.

23. Mr. Turk claims that there was no rational reason for downgrading his P-4 PAO post.

24. Mr. Turk submits that in the last two years it has been revealed that there was no downgrading decision as UNAMI falsely claimed.

25. Mr. Turk submits that "UNAT Counsel has deliberately erred in its judgment" as it does not know the fact that there was no genuine decision to downgrade his post.

26. Mr. Turk avers that even if there was a decision, UNAMI failed to adhere to the staff rules by sending a letter of non-extension immediately after the CRP outcome.

27. Mr. Turk states that his case should be treated in the same manner as the cases of *Timothy*, *Matadi*, *Bali*, and *Hersh*.¹²

28. Mr. Turk hopes that the UNAT will acknowledge the harm to his health for the past two years and award him compensation. He has submitted detailed information about his health and declining living standards.

¹² *Timothy* Judgment, *op. cit.*; *Matadi et al. v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-592; *Bali v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-450; *Hersh v. Secretary-General of the United Nations*, Judgment No. 2014-UNAT-433.

29. Mr. Turk submits that the UNDT and UNAT used “hostile language” when discussing the two versions of his PHP, as “a desperate attempt to undermine [his] self-esteem and credibility which falls under defamation”.

30. Mr. Turk states that if UNAMI and the UNAT are questioning his experience, the UNAT could contact the Jordanian and Turkish embassies to inquire about his work experience there.

31. Mr. Turk invites the UNAT to apologize to him and award compensation for UNAMI’s unacceptable act of defamation, in addition to the moral damage caused.

The Secretary-General’s Comments

32. The Secretary-General requests that the UNAT dismiss Mr. Turk’s application for revision.

33. The Secretary-General reminds that pursuant to Article 11(1) of the Appeals Tribunal Statute (Statute), a party may apply for a revision “on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Appeals Tribunal and to the party applying for revision”. The Secretary-General recalls that under UNAT jurisprudence, an application for revision can only succeed if it meets these strict and exceptional criteria.

34. The Secretary-General notes that the UNAT has held that final judgments cannot be readily set aside and to do so must be on limited grounds and for the gravest of reasons.

35. The Secretary-General observes that Mr. Turk’s application for revision is premised on the claim that the UNAT Judgment provided the wrong information about the scope of his appeal, and emphasizes that UNAMI has violated the United Nations Staff Rules and Regulations through its ill-motivated decision to end his career.

36. The Secretary-General notes that Mr. Turk refers to annexes submitted to the UNDT in an attempt to demonstrate that there was no decision by the General Assembly to downgrade his post. These were not “found” since the UNAT Judgment was issued, these were known to him during the UNDT proceedings.

37. The Secretary-General submits that Mr. Turk’s assertions fail to meet the requirements of Article 11 of the Statute. At no point does Mr. Turk mention any new or decisive fact that was unknown to him and the Appeals Tribunal at the time of the UNAT Judgment.

38. The Secretary-General submits that Mr. Turk's statement that he is "appealing against UNAT's judgment" shows that he clearly seeks to re-open a final judgment of the UNAT with which he disagrees, which is not grounds for revision of a judgment.

39. Because Mr. Turk's assertions fail to meet the requirements of Article 11 of the Statute, the Secretary-General requests that the UNAT dismiss the application.

Considerations

40. Mr. Turk's application seeks the revision of Judgment No. 2023-UNAT-1395 issued by the Appeals Tribunal on 27 October 2023. We shall not reiterate the conclusions of, and reasoning in, that Judgment because it is recent, comprehensive and self-explanatory.

41. Mr. Turk based his request for revision on Article 2 of the Statute.¹³ We note that Article 2 lays down the jurisdiction or competence of the Appeals Tribunal to determine appeals of judgments of first instance tribunals and not the revision of a judgment of the Appeals Tribunal. We held in *Michael David Antoine* that Article 2 of the Statute provides that the Appeals Tribunal can review the Dispute Tribunal's judgment concerning an error in procedure "such as to affect the decision of the case".¹⁴ In addition, pursuant to Article 2, the Appeals Tribunal reviews errors of law and fact in the judgments of first instance tribunals.¹⁵ It seems clear from his reference to Article 2 that Mr. Turk's purpose is to relitigate his unsuccessful appeal by purportedly finding errors in the UNAT Judgment, which he may not do.

42. Based on Mr. Turk's misguided reliance on Article 2 of the Statute, the application is not receivable and lacks merit. We shall nonetheless adjudicate Mr. Turk's application for revision based on the appropriate legal framework for revision of judgment set out in Article 11 of the Statute and Article 24 of the Appeals Tribunal Rules of Procedure (Rules).

43. Article 11 (1) of the Statute provides that:

Subject to Article 2 of the present Statute, either party may apply to the Appeals Tribunal for a revision of a judgment on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Appeals Tribunals and to the party applying for revision, always provided that ignorance was not due to negligence. The

¹³ Appeal Brief, para. 12.

¹⁴ *Michael David Antoine v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1449, para. 53.

¹⁵ *Krioutchkov v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-711, para. 20.

application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgment.

44. Article 24 of the Rules stipulates that:

Either party may apply to the Appeals Tribunal, on a prescribed form, for a revision of a judgment on the basis of the discovery of a decisive fact that was, at the time the judgment 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 the 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 judgment.

45. In *Larriera*, we emphasized that:¹⁶

... Applications for revision of judgment are governed by Article 11 of the Statute and Article 24 of the Rules of Procedure of the Appeals Tribunal. By these provisions, an applicant must show or identify the decisive facts that were at the time of the Appeals Tribunal Judgment were unknown to both the Appeals Tribunal and the party applying for revision; that such ignorance was not due to the negligence of the applicant; that the facts identified would have been decisive in reaching the decision; and that the decisive facts existed at the time when the judgment was given and discovered subsequently. Facts which occur after a judgment has been given are not such facts within the meaning of Article 11 of the Statute and Article 24 of the Rules of Procedure of the Appeals Tribunal. This remains the case irrespective of the legal consequences that such facts may have.

46. We have variously confirmed that “any application which, in fact, seeks a review of a final judgment rendered by the Appeals Tribunal can, irrespective of its title, only succeed if it fulfills the strict and exceptional criteria established by Article 11 of the Statute”.¹⁷

47. These criteria were re-echoed in *Samer Nayif Mahmud Mohammad* that for an application for revision to be considered receivable, it should comply with the following four requirements simultaneously:¹⁸

¹⁶ *Carolina Larriera v. United Nations Joint Staff Pension Board*, Judgment No. 2022-UNAT-1193, para. 24.

¹⁷ *Applicant v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-393, para. 14 (internal citations omitted).

¹⁸ *Samer Nayif Mahmud Mohammad v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2023-UNAT-1352, para. 31.

- i) The new fact discovered was unknown to the Appeals Tribunal and to the party applying for revision at the time the judgment was rendered;
- ii) Such ignorance was not due to negligence of the moving party;
- iii) The new fact would have been decisive in reaching the original judgment; and
- iv) The application was made within 30 calendar days of the discovery of the fact and within one year of the date of the judgment.

48. In the instant matter, Mr. Turk's application for the revision of the UNAT Judgment does not comply with any of the requirements (other than being filed within one year of its issuance). He merely expresses his disappointment with the UNAT Judgment on its merits and seeks to reargue his case. Indeed, there is no fact discovered after the issuance of the UNAT Judgment which was unknown to the Appeals Tribunal and to Mr. Turk at the time of decision. Rather, Mr. Turk's submissions in justification of the application for revision basically repeat or add to his same arguments regarding the perceived injustice that Mr. Turk raised challenging the non-renewal of his FTA and his claims that the UNAT ignored the fact that his appeal was primarily against the downgrading of the P-4 PAO position he had occupied and the lawfulness of UNAMI's decision to separate him from service.

49. The UNAT Judgment sought to be revised was based on facts which Mr. Turk has never countervailed. Therefore, he is bound by those facts in accordance with Article 10(6) of the Statute which provides that the judgments of the Appeals Tribunal shall be final and without appeal. Appeals Tribunal judgments are decisive and definitively binding on the parties, subject only to the narrow and restrictive provisions of Article 11 of the Statute and Article 24 of the Rules.¹⁹

50. Mr. Turk requests that in revising the UNAT Judgment, this Tribunal accept his claim for moral damages and harm incurred to his health as supported by medical reports, including mental health deterioration and other consequences on his body and lifestyle. We have held consistently that there can be no compensation without an illegality. In *AAD*, we emphasized that "in order to award compensation for harm, there must be evidence to support the existence of harm, an illegality, and a nexus between the two".²⁰

¹⁹ *Ahmad Shuaib Payenda v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1276, para. 19.

²⁰ *AAD v. Secretary-General of the United Nations*, Judgment No. 2022-UNAT-1267, para. 81 (internal citation omitted).

51. We reiterate that, in these circumstances, the request filed by the Applicant does not fulfill the statutory requirements for revision and constitutes, in fact, a disguised attempt to re-open his prior case. Consequently, his application is not meritorious. The Appeals Tribunal is the final appellate body in such matters. An application for revision of a judgment cannot be a collateral means of attack on the judgment, nor can it be allowed to be a second right of final appeal.

52. Accordingly, Mr. Turk's application for revision is denied.

Judgment

53. Mr. Turk's application for revision of Judgment No. 2023-UNAT-1395 is dismissed.

Original and Authoritative Version: English

Decision dated this 25th day of October 2024 in New York, United States.

(Signed)

Judge Forbang, Presiding

(Signed)

Judge Gao

(Signed)

Judge Sheha

Judgment published and entered into the Register on this 25th day of November 2024 in New York, United States.

(Signed)

Juliet E. Johnson, Registrar