



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1525

**Abdurrahman Turk
(Appellant)**

v.

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

JUDGMENT

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| Before: | Judge Gao Xiaoli, Presiding Judge Leslie F. Forbang Judge Kanwaldeep Sandhu |
| Case No.: | 2024-1920 |
| Date of Decision: | 21 March 2025 |
| Date of Publication: | 24 April 2025 |
| Registrar: | Juliet E. Johnson |

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| Counsel for Appellant: | Self-represented |
| Counsel for Respondent: | Agnieszka Martin |

JUDGE GAO XIAOLI, PRESIDING.

1. Mr. Abdurrahman Turk, a former staff member with the United Nations Assistance Mission for Iraq (UNAMI) filed two applications with the United Nations Dispute Tribunal (UNDT), one on 7 January 2022 and one on 3 March 2022, challenging the same decision not to renew his fixed-term appointment (FTA) beyond its expiration date of 31 December 2021 (contested decision).
2. By Judgment No. UNDT/2022/068 (impugned Judgment),¹ the UNDT dismissed the application filed on 3 March 2022 as not receivable.
3. Mr. Turk lodged an appeal of the impugned Judgment with the United Nations Appeals Tribunal (Appeals Tribunal or UNAT).
4. For the reasons set out below, the Appeals Tribunal dismisses the appeal.

Facts and Procedure

5. Mr. Turk was a P-4 Political Affairs Officer (PAO) with UNAMI.²
6. On 30 November 2021, Mr. Turk was notified of the contested decision.³ He filed a request for management evaluation (MER) and on 28 December 2021 the Management Evaluation Unit (MEU) decided to uphold the decision.
7. On 7 January 2022, Mr. Turk filed his first application with the UNDT, challenging the contested decision.⁴ That case was registered as Case No. UNDT/NBI/2022/006 (First Case).
8. On 3 March 2022, Mr. Turk filed his second application with the UNDT, challenging the contested decision.⁵ That case was registered as Case No. UNDT/NBI/2022/025 (Second Case).
9. On 12 April 2022, Mr. Turk filed a motion in the Second Case, requesting the UNDT to merge the cases on grounds that he had created the Second Case in error.⁶

¹ *Turk v. Secretary-General of the United Nations*, Judgment dated 18 July 2022.

² Impugned Judgment, para. 1.

³ *Abdurrahman Turk v. Secretary-General of the United Nations (Turk I)*, Judgment No. 2023-UNAT-1395, paras. 11-12.

⁴ Impugned Judgment, para. 2.

⁵ *Ibid.*, para. 3.

⁶ *Ibid.*, para. 4.

The impugned Judgment

10. By Judgment No. UNDT/2022/068 dated 18 July 2022, the UNDT dismissed the application in the Second Case as not receivable and noted that Mr. Turk's grievances were being considered in the First Case.

11. The UNDT found that Mr. Turk's two applications concerned the same subject-matter and the same cause of action between the same parties.⁷ There is in substance one administrative decision. The first application was *lis pendens* when the second application was made. Mr. Turk acknowledged the same in his motion to merge cases and orally during a case management discussion held on 6 July 2022.

12. The UNDT concluded that there was no case for merger; rather, the present application was not receivable under the doctrine of *lis pendens*.⁸

Subsequent procedures

13. On 18 July 2022, Mr. Turk received the impugned Judgment.⁹

14. On 2 November 2022, the UNDT issued Judgment No. UNDT/2022/118 in the First Case, dismissing Mr. Turk's application on the merits.¹⁰ On 4 December 2023, the Appeals Tribunal issued its Judgment No. 2023-UNAT-1395 (*Turk I*), dismissing Mr. Turk's appeal of that UNDT Judgment.¹¹

15. On 13 May 2024, Mr. Turk filed an appeal of the impugned Judgment in the Second Case with the Appeals Tribunal, to which the Secretary-General filed an answer on 15 July 2024.

16. On 18 July 2024, the Appeals Tribunal noted that on 11 July 2024 Mr. Turk had filed a document entitled "Request for Suspension, Waiver or Extension of Time Limit to Appeal" which he had stated was his comment to the Secretary-General's motion for summary judgment.¹² The Appeals Tribunal found that the pleadings in the present case were complete.¹³

⁷ *Ibid.*, para. 6.

⁸ *Ibid.*

⁹ 18 July 2022 e-mail from the UNDT Registry.

¹⁰ *Turk v. Secretary-General of the United Nations*, Judgment No. UNDT/2022/118.

¹¹ *Turk I* Judgment, *op. cit.*

¹² Order No. 570 (2024), para. 9.

¹³ *Ibid.*, para. 16.

Submissions

Mr. Turk's Appeal

17. Mr. Turk requests the Appeals Tribunal to order his reinstatement or, in the alternative, rescission of the contested decision or specific performance (unspecified) and compensation for harm.

18. Mr. Turk argues that the UNDT exceeded its jurisdiction by rejecting, “undermining” or ignoring the evidence. He revealed new undisputed evidence in the Second Case. The UNDT also ignored the facts presented in the Second Case.

19. Characterizing the impugned Judgment as “closing the case”, Mr. Turk submits that the UNDT deliberately committed an error in procedure by its decision despite the fact that he had insisted on merging the Second Case with the First Case. Closing the Second Case was, in reality, an attempt to prevent him from appealing the impugned Judgment to the Appeals Tribunal, as he was not aware of the right to appeal the closing of a case. By closing the case, the UNDT deliberately ignored his rights.

20. Mr. Turk contends that the UNDT Registry, strikingly, informed him via e-mails that the UNDT Judge requested him to “stop downloading any document on the [e-filing] system” which, in his view, speaks for itself. In Judgment No. UNDT/2022/118, issued in the First Case, the UNDT used language that he had “occupied” the post, instead of using words such as having been an “incumbent” of the post, which is evidence that the impugned Judgment was biased against him.

The Secretary-General's Answer

21. The Secretary-General requests the Appeals Tribunal to uphold the impugned Judgment and dismiss the appeal.

22. The Secretary-General argues that the UNDT correctly found the application not receivable *lis pendens*. Both Mr. Turk's applications contested the same administrative decision, requested the same relief of rescission and damages, and involved the same parties.

23. The Secretary-General submits that the appeal is not receivable *ratione temporis*. The deadline for filing the appeal was 16 September 2022. Mr. Turk filed his appeal on 13 May 2024,

that is 22 months after he was notified of the impugned Judgment. He has not requested that the appeal deadline be suspended or waived.

24. The Secretary-General contends that Mr. Turk's case is *res judicata*. Having exhausted the avenues of appeal in the adjudication of his first application, he may not relitigate his case through his second application. His arguments had already been presented before, and rejected by, the UNAT. Moreover, Mr. Turk has failed to demonstrate any error on the part of the UNDT warranting a reversal of the impugned Judgment. He has not established that the UNDT made any errors of law or of fact. He has failed to demonstrate that the UNDT exceeded its jurisdiction. His arguments concern the merits of the case.

Considerations

Oral hearing

25. As a preliminary matter, Mr. Turk requested an oral hearing on grounds that it "[was] always better to answer [the Appeals Tribunal's] questions and express the injustice [he had been] subjected to".¹⁴

26. Oral hearings are governed by Article 8(3) of the UNAT Statute and Article 18(1) of the UNAT Rules of Procedure (Rules). According to this framework, the UNAT has discretion to determine whether or not to hold an oral hearing with the aim to deal with the case efficiently and fairly. Oral hearings could be held if such hearings would assist in the expeditious and fair disposal of the case. In this instance, the Appeals Tribunal has arguments submitted by both parties and the record of the UNDT which are sufficient to decide the issues of receivability. Accordingly, we do not see that an oral hearing would "assist in the expeditious and fair disposal of the case".¹⁵ His request for an oral hearing is therefore denied.

Receivability

27. In accordance with Article 7(4) of the UNAT Statute and Article 7(3) of the Rules, no application shall be receivable if filed more than one year after the judgment of the Dispute Tribunal.

¹⁴ Appeal form, Section 6.

¹⁵ Rules, Article 18(1).

28. The Appeals Tribunal has repeatedly held that it “has been strictly enforcing, and will continue to strictly enforce, the various time limits”.¹⁶

29. In the present case, the impugned Judgment was issued on 18 July 2022 and was sent to Mr. Turk by e-mail on the same day. In that e-mail, Mr. Turk was informed of his right of appeal as follows: “This Judgment is subject to appeal before the United Nations Appeals Tribunal in accordance with art. 11.3 of the Statute of the Dispute Tribunal and art. 7.1(c) of the Statute of the Appeals Tribunal.” Mr. Turk filed this appeal on 13 May 2024. It is obviously more than one year after the issuance of the UNDT Judgment.

30. Even if Mr. Turk had requested a waiver of the time limit on the basis of exceptional circumstances, his appeal is time-barred by Article 7(4) of the UNAT Statute and therefore not receivable *ratione temporis*.¹⁷

31. In spite of this, we note that Mr. Turk’s application filed with the UNDT is not receivable under the doctrine of *res judicata*.

32. The doctrine of *res judicata*, as established by our consistent jurisprudence, means that an application is not receivable *ratione materiae* when the matter has been resolved by a prior final judgment. *Res judicata* signifies that the same cause of action cannot be adjudicated twice.¹⁸ We have consistently reiterated that “the authority of a final judgment—*res judicata*—cannot be so readily set aside. The party who loses can not re-litigate his or her case. There must be an end to litigation and the stability of the judicial process requires that final judgments by an appellate court be set aside only on limited grounds and for the gravest of reasons”.¹⁹

33. Mr. Turk already challenged the same administrative decision not to renew his fixed-term appointment in Case No. UNDT/NBI/2022/006. In *Turk I*,²⁰ we affirmed the UNDT Judgment in the latter case. The dispute in the contested decision, having been decided, became *res judicata*. In the case at hand, Mr. Turk seeks to re-litigate his arguments and has thereby

¹⁶ *Romman v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2013-UNAT-308, para. 16.

¹⁷ *See King v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-800, para. 21.

¹⁸ *See Jane Patience Ocoru v. Secretary-General of the United Nations*, Judgment No. 2024-UNAT-1483, para. 50.

¹⁹ *Shanks v. United Nations Joint Staff Pension Board*, Judgment No. 2010-UNAT-026bis, para. 4. *See also Obdeijn v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-353, para. 12.

²⁰ *Turk I* Judgment, *op. cit.*

manifestly abused the judicial process of the internal justice system. He should stop his re-litigation.

34. We note further that the UNDT made no error in finding that Mr. Turk's first application was *lis pendens* when the second application was made. The UNDT correctly found that Mr. Turk's two applications concerned the same subject-matter and the same cause of action between the same parties and that there was in substance one administrative decision. Consequently, the UNDT made no error in finding that Mr. Turk's application was not receivable.

Judgment

35. Mr. Turk's appeal is dismissed.

Original and Authoritative Version: English

Decision dated this 21st day of March 2025 in Nairobi, Kenya.

(Signed)

Judge Gao, Presiding

(Signed)

Judge Forbang

(Signed)

Judge Sandhu

Judgment published and entered into the Register on this 24th day of April 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar