



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

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Judgment No. 2014-UNAT-490

**Dzuverovic  
(Applicant)**

**v.**

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

**JUDGMENT ON INTERPRETATION**

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**Before:** Judge Rosalyn Chapman, Presiding  
Judge Luis María Simón  
Judge Mary Faherty

**Case No.:** 2013-527

**Date:** 17 October 2014

**Registrar:** Weicheng Lin

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**Counsel for Applicant:** Self-represented

**Counsel for Respondent:** Rupa Mitra

**JUDGE ROSALYN CHAPMAN, PRESIDING.**

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for interpretation of Judgment No. 2013-UNAT-338 in the case of *Dzuverovic v. Secretary-General of the United Nations*, which was rendered by the Appeals Tribunal on 28 June 2013. Ms. Vesna Dzuverovic filed her application for interpretation on 25 September 2013, and the Secretary-General of the United Nations filed his comments on 23 October 2013. In Order No. 164 (2013), the Appeals Tribunal denied Ms. Dzuverovic's motion for leave to file comments on the Secretary-General's comments.

**Facts and Procedure**

2. In November 1994, Ms. Dzuverovic joined the Technical Cooperation Division of the United Nations Centre for Human Settlement, which is currently known as UN-HABITAT, based in Nairobi. In 1995, Ms. Dzuverovic wrote to the Office of Internal Oversight Services (OIOS) alleging irregularities in recruitment and procurement practices in her unit. She made subsequent requests to OIOS for investigations or interventions in 1996, 1998, and on 3 August 2010. Ms. Dzuverovic was separated from service in 1999. On 26 August 2010, OIOS informed Ms. Dzuverovic that it would not take action on her requests to investigate her allegations of irregularity (contested decision). On 13 September 2011, she filed a request for management evaluation of the contested decision, which was denied on the grounds that it was not timely and not receivable.

3. On 3 February 2012, Ms. Dzuverovic filed an application with the United Nations Dispute Tribunal (UNDT) challenging the contested decision. On 12 July 2012, the UNDT issued Judgment on Receivability No. UNDT/2012/105, in which it determined that the application was not receivable. Nevertheless, in paragraphs 60-76 of the Judgment, the UNDT made a series of "recommendations" concerning Ms. Dzuverovic's role as a "whistle blower". Ms. Dzuverovic appealed the Judgment and the Secretary-General filed a cross-appeal seeking an order to redact the UNDT's "recommendations".

4. In Judgment No. 2013-UNAT-338, the Appeals Tribunal unanimously found that the UNDT properly determined the application was not receivable and dismissed Ms. Dzuverovic's appeal. The Appeals Tribunal further found by majority, with Judge Chapman dissenting, that the Secretary-General's cross-appeal should be dismissed

because the “approach of the UNDT [does not] merit[] the remedy sought by the Secretary-General since the UNDT’s ‘recommendations’ have no binding consequences on the parties”.

### **Submissions**

#### **Ms. Dzuverovic’s Application**

5. Ms. Dzuverovic argues that the Appeals Tribunal affirmed the UNDT Judgment “with all its parts including the recommendation[s] (since it has neither reversed, nor modified, nor remanded, as per article 2, paragraph 3 of the [Appeals Tribunal] Statute). Therefore, as the UNDT judgment with its recommendation[s] has been affirmed, [she] wishes to understand the practical consequences of that fact.” More specifically, Ms. Dzuverovic “wishes to address those UNAT judges who disagreed with [J]udge Chapman, in order to seek their opinion on the possibilities and ways in which they believe that the said recommendation[s] could be translated into reality”. Accordingly, Ms. Dzuverovic asks:

- a) What is the procedure of advising the Secretary-General of the existence of a recommendation? ...
- b) Is the same office or even the same person who acted as the ‘respondent’ on behalf of the [Secretary-General], going to decide on the fate of this recommendation? ... If it is permissible, [she] would respectfully request the Appeals Tribunal to ask the Office of the Secretary[-]General to assign an independent senior officer to have a look at the two judgments, the recommendation and additional documentation, and even to contact [her] if necessary, if further clarification of a reference from the recommendation or similar, is required.

#### **The Secretary-General’s Comments**

6. The Secretary-General requests that the Appeals Tribunal find the application for interpretation is not related to the “meaning or scope” of the Judgment, as required by Article 25 of the Appeals Tribunal Rules of Procedure (Rules), and is therefore not admissible under Article 11(3) of the Statute of the Appeals Tribunal (Statute). Moreover, the Secretary-General argues, Ms. Dzuverovic is asking the Appeals Tribunal to speculate, and that does not fall within Article 11(3) of the Statute.

7. Alternatively, the Secretary-General requests that the application for interpretation should be dismissed because the meaning and scope of the Judgment are not ambiguous. The Judgment affirmed the UNDT in all particulars, including the recommendations which have no binding consequences on the parties. The language of the Appeals Tribunal was clear and needs no interpretation.

### **Considerations**

8. Article 11(3) of the Appeals Tribunal Statute provides that “[e]ither party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgement”. Similarly, Article 25 of the Rules provides:

Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of a judgement on a prescribed form. ... The Appeals Tribunal will decide whether to admit the application for interpretation and, if it does so, shall issue its interpretation.

9. Ms. Dzuverovic seeks an interpretation of the portion of the Judgment that dismissed the Secretary-General’s cross-appeal to redact the “recommendations” made by the Dispute Tribunal, and thus allowed those “recommendations” to remain despite the fact that Ms. Dzuverovic’s UNDT application was not received.

10. The Appeals Tribunal finds that the majority, with Judge Chapman dissenting, explained the “meaning and scope” of its decision to dismiss the Secretary-General’s cross-appeal and not to redact the UNDT’s “recommendations”, when it stated that the “‘recommendations’ have no binding consequences on the parties”. Since the Judgment is not ambiguous, the Appeals Tribunal concludes that the application for interpretation should not be admitted.

### **Judgment**

11. The application for interpretation is not admitted.

Original and Authoritative Version: English

Dated this 17<sup>th</sup> day of October 2014 in New York, United States.

*(Signed)*

Judge Chapman, Presiding

*(Signed)*

Judge Simón

*(Signed)*

Judge Faherty

Entered in the Register on this 22<sup>nd</sup> day of December 2014 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar