



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

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Judgment No. 2022-UNAT-1190

**Emma Reilly  
(Applicant)**

**v.**

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

**JUDGMENT ON APPLICATION FOR CORRECTION OF JUDGMENT**

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Before:	Judge John Raymond Murphy, Presiding Judge Dimitrios Raikos Judge Martha Halfeld
Case No.:	2021-1546
Date:	18 March 2022
Registrar:	Weicheng Lin

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

**JUDGE JOHN RAYMOND MURPHY, PRESIDING.**

1. Ms. Emma Reilly has filed an application for correction of Judgment No. 2021-UNAT-1079 which the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued on 19 March 2021. However, her application is in substance an application for both correction and revision. For the reasons set out below, we dismiss the application.

**Facts and Procedure**

2. On 24 June 2020, the UNDT issued Judgment No. UNDT/2020/097 in the matter of *Reilly v. Secretary-General of the United Nations*. The UNDT dismissed Ms. Reilly’s application which challenged “the procedure by which her request for protection from retaliation was processed, the failure to protect her from retaliation and the failure to follow up on Ethics Office recommendations subsequent to her request for protection from retaliation”.<sup>1</sup>

3. On 29 July 2020, Ms. Reilly filed an appeal of the UNDT Judgment. On 19 March 2021, the Appeals Tribunal issued Judgment No. 2021-UNAT-1079 dismissing the appeal.

4. On 14 April 2021, Ms. Reilly filed an “Application for Correction of Judgment” in terms of Article 11(2) of the Statute of UNAT. The Secretary-General filed his comments on 21 May 2021.

**Submissions**

**Ms. Reilly’s Application**

5. Ms. Reilly contends that the following paragraphs contain errors requiring correction:
- At paragraph 7 of the Judgment, it should be added that “the Director of the Ethics Office agreed, that [Ms. Reilly’s] case be reopened on the basis of errors of fact and law in the initial determination”;
  - Paragraph 9 of the Judgment is incorrect in stating that on 1 August 2017 she had requested that her complaint be referred to a “Second Alternate Chair” for further review;
  - Paragraph 11 of the Judgment is incorrect in stating that she was on special leave with pay between 1 and 6 October 2019 rather than only on 3 and 4 October 2019;

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<sup>1</sup> *Reilly v. Secretary-General of the United Nations*, Judgment No. UNDT/2020/097, para. 1.

- At paragraph 11 of the Judgment, the Judgment is incorrect in stating that the attempts to mediate the dispute were not successful, because “no such attempts were made”; and
- Paragraphs 25 to 28 of the Judgment incorrectly reflect her legal arguments. She suggests three additional paragraphs which should be added to the Judgment.

### **Secretary-General’s Comments**

6. Ms. Reilly’s requests do not address clerical mistakes, accidental errors or omissions; moreover, her requests address aspects of the Judgment, which even if accepted, would have no material impact on the Judgment.

7. Other requests appear to seek a revision of the Judgment. Under Article 11(1) of the UNAT Statute, the UNAT may revise a judgment upon “the discovery of a decisive fact which was, at the time the judgement was rendered, unknown to the Appeals Tribunal and to the party applying for revision”. However, the changes requested do not rely on facts which are decisive or, more importantly, that were unknown to the UNAT when it rendered the Judgment.

8. Ms. Reilly seeks leave to correct paragraph 11 of the Judgment, submitting that she was on special leave with pay for two rather than six days in October 2019. Upon further investigation, the Secretary-General confirms that Ms. Reilly was on special leave with full pay for four rather than six days in October 2019. That fact, however, is not a decisive fact, as it has no impact on the outcome of the case or the reasoning in it. Notwithstanding this factual matter, the requests in the application for the revision of the Judgment do not meet the standards of Article 11 of the UNAT Statute.

### **Considerations**

9. Article 11 of the Appeals Tribunal Statute in relevant part provides:

(1) 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 Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. ...

(2) 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.

10. The first paragraph of the Judgment which Ms. Reilly wishes to be corrected is paragraph 7 which reads as follows: “On 13 October 2016, Ms. Reilly informed the Director of the Ethics Office that she had other documentation that would show a *prima facie* case of retaliation. The director agreed to review such information. In the following days and months, Ms. Reilly submitted additional documentation to the Ethics Office.”

11. Ms. Reilly maintains that these statements are inaccurate. Rather, she says, she asked, and the Director of the Ethics Office agreed, that her case be reopened on the basis of errors of fact and law in the initial determination. She would thus prefer the sentence to read that the Director of the Ethics Office agreed that her case be reopened on the basis of errors of fact and law in the initial determination. The correction sought is of no material consequence to the outcome or reasoning of the Judgment and is really no more than a matter of interpretation or emphasis.

12. The second paragraph of the Judgment which Ms Reilly wishes to be corrected is paragraph 9 which reads as follows:

On 10 April 2017, the Alternate Chair informed Ms. Reilly that there was no *prima facie* case of retaliation. On 1 August 2017, Ms. Reilly requested that her retaliation complaint be referred to a Second Alternate Chair of the Ethics Panel of the United Nations (Second Alternate Chair) for a further review. Ms. Reilly made that request in terms of Section 9 of Secretary-General’s Bulletin ST/SGB/2017/2 (Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations) promulgated on 20 January 2017, which permits a complainant to request the Alternate Chair of the Ethics Panel to review a determination of the Ethics Office finding no *prima facie* case of retaliation.

13. Ms. Reilly would prefer the statement of facts in the Judgment to record that she requested a review of the findings more than three months earlier on 28 April 2017 and to record that she objected to the “unilateral imposition” of a review by the Second Alternate Chair, who she suggests lacked statutory competence. She does not however specifically deny that she requested that her retaliation complaint be referred to the Second Alternate Chair. Her complaint seems more directed at what she considers to be an incomplete statement of the facts. Once again, the correction she seeks is immaterial and inconsequential. The relevant fact is that the Second Alternate Chair received and considered her complaint. How, why and when it came to be before the Second Alternate Chair is of no consequence. Her misinformed view about the competence of a Second Alternate Chair is irrelevant in the light

of the finding that the determinations of the Second Alternate Chair in any event did not constitute administrative decisions subject to review.

14. Ms. Reilly quibbles further with two points in paragraph 11 of the Judgment which reads:

The attempts to mediate the dispute with the aid of the United Nations Ombudsman were unsuccessful. But the United Nations Chef de Cabinet, the High Commissioner for Human Rights, the Assistant Secretary-General for Human Resources Management, and their respective staff, collaborated to reassign Ms. Reilly to suitable positions. From 1 May 2018 to 30 September 2019, Ms. Reilly was temporarily assigned to the OHCHR Rule of Law and Democracy Section at the P-4 level. She was then placed, for six days, on special leave with full pay, following which, on 6 October 2019, she was laterally transferred from her previous post to a new position at the Development and Economic and Social Issues Branch of OHCHR.

15. Her first quibble relates to the first sentence of paragraph 11. She states:

At paragraph 11, the judgement states “The attempts to mediate the dispute with the aid of the United Nations Ombudsman were unsuccessful.” This is incorrect. No such attempts were made. The Appellant was informed by the ombudsman that the Administration had refused the recommendation for mediation, and provided contemporaneous emails to the Tribunal demonstrating her efforts to obtain a response from the Administration as to whether the statement was accurate ... In fact, following closing arguments in the case, on 31 August 2019, the Administration complained in writing to the Dutch Foreign Ministry that the Appellant continued to seek mediation, indicating that it considered such to be unnecessary rather than precluded by any factor ... This information was obtained from the Dutch Ministry through exercise by the Appellant of her rights under the European Union General Data Protection Regulation). The Appellant had no possible way to verify the accuracy of Ms Taylor’s statement, although the Appellant notes she has an outstanding complaint regarding failure by Ms Taylor to comply with promises made under oath in the present case ... The Appellant requested written confirmation from the ombudsman that no attempt at mediation occurred, but he shares the Appellant’s interpretation of the law laid out in the Appeal and has therefore refused to provide such ...

16. Ms. Reilly makes no request for a specific correction here. She merely indulges in pedantry, preferring her every grievance and interpretation of the facts to be ventilated in the light in which she would choose to cast them. The only fact of relevance is that attempts to mediate the dispute failed - for whatever reason; and the Judgment accurately records that.

17. Ms. Reilly also seeks correction of the statement in paragraph 11 of the Judgment that she was on special leave with pay for six days in October 2019. The Secretary-General concedes that it furnished the Appeals Tribunal with incorrect information in this regard. During the course of the preparation of the answer to the appeal, Counsel for the Secretary-General contacted the United Nations Office in Geneva (UNOG) to inquire as to the length of Ms. Reilly's special leave with pay and was informed that she had been placed on special leave with pay for six days, from 1 to 6 October 2019. Following receipt of the application for the correction of the Judgment, Counsel again inquired with UNOG Human Resources about the length of the special leave with pay and was forwarded a message sent from the Chief of Human Resources at OHCHR to Ms. Reilly confirming that Ms. Reilly was, indeed, on special leave with pay for only four days, 3 through 6 October 2019 (Thursday through Sunday). It is therefore correct that Ms. Reilly was on special leave with pay for four rather than six days in October 2019. That fact, however, is not a decisive fact, as it has no impact on the outcome of the case or the reasoning in it. It accordingly does not warrant a correction or revision of the Judgment. It is again something of an inconsequential exercise in pedantry.

18. Finally, Ms. Reilly requests the inclusion of three additional paragraphs between paragraphs 27 and 28 of the Judgment which she believes will give a fuller reflection of her legal arguments and submissions. Article 11 of the Statute of the UNAT does not contemplate the correction or revision of a judgment to include more elaborate legal arguments. There is accordingly no legal basis to grant Ms. Reilly's request in this regard either.

**Judgment**

19. The application for correction of Judgment No. 2021-UNAT-1079 is dismissed.

Original and Authoritative Version: English

Dated this 18<sup>th</sup> day of March 2022.

*(Signed)*

Judge Murphy, Presiding  
Cape Town, South Africa

*(Signed)*

Judge Raikos  
Athens, Greece

*(Signed)*

Judge Halfeld  
Juiz de Fora, Brazil

Entered in the Register on this 5<sup>th</sup> day of April 2022 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar