



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2025-UNAT-1582

Olexandr Maruschak
(Respondent)

v.

Secretary-General of the United Nations
(Applicant)

JUDGMENT ON APPLICATION FOR INTERPRETATION

Before:	Judge Leslie F. Forbang, Presiding Judge Kanwaldeep Sandhu Judge Abdelmohsen Sheha
Case No.:	2025-2020
Date of Decision:	31 October 2025
Date of Publication:	3 November 2025
Registrar:	Juliet E. Johnson

Counsel for Applicant: Noam Wiener

Counsel for Respondent: Not represented

JUDGE LESLIE F. FORBANG, PRESIDING.

1. On 2 May 2025, the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued Judgment No. 2025-UNAT-1529 (UNAT Judgment) in the case of *Olexandr Maruschak v. Secretary-General of the United Nations*.
2. In the UNAT Judgment, the UNAT reversed Judgment No. UNDT/2023/140 (UNDT Judgment), in which the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) found that the disciplinary decision imposed on Mr. Maruschak by the Administration was unlawful, but did not award a remedy under Article 10(5) of the Dispute Tribunal Statute (UNDT Statute). The UNAT further agreed that Mr. Maruschak's submission of forged documents to the UNDT was a manifest abuse of process; however, the UNAT held that the UNDT failed in assessing the appropriate quantum for costs under Article 10(6) of the UNDT Statute. The UNAT remanded the case for redetermination.
3. In paragraph 104 of the UNAT Judgment, the UNAT stated that "[a]fter the UNDT makes its determination on the Article 10(5) remedy for the unlawful administrative decision and the appropriate quantum for costs pursuant to Article 10(6), the UNDT will then have exercised its full jurisdiction and have finalized its judgment."
4. The Secretary-General has filed an application for the interpretation of paragraph 104 of the UNAT Judgment.
5. For reasons set forth herein, the Appeals Tribunal grants the application.

Facts and Procedure

6. Mr. Maruschak is a former Field Security Officer with the United Nations Interim Force in Lebanon (UNIFIL). He was separated from service following disciplinary proceedings in which the Administration determined that he had been driving under the influence of alcohol when he collided with a United Nations armoured vehicle (contested decision).¹
7. Mr. Maruschak filed an application with the UNDT challenging the contested decision. During the course of the Dispute Tribunal proceedings, Mr. Maruschak submitted documents that purported to show that he had undergone heart valve replacement surgery at a cost of EUR 78,310.

¹ UNAT Judgment, paras. 21 and 23.

These documents, and others concerning the mortgaging of his home, were presented to the UNDT to justify an award of moral damages for harm suffered since his separation from the Organization.² These documents were later established to be forgeries.³

8. In the UNDT Judgment, the UNDT considered whether the Administration had established by clear and convincing evidence that Mr. Maruschak had consumed alcohol. The UNDT held that it could not accept the results of the breathalyzer test because the test was not administered by a UNIFIL Security Officer, as required under Section 9(b) of UNIFIL Administrative Instruction AI/2011/007.⁴ Without these results, the UNDT held that the Organization failed to prove by clear and convincing evidence that Mr. Maruschak drove his vehicle after consuming alcohol.

9. As a consequence, the UNDT found that the contested decision could not be sustained. However, the UNDT declined to order its rescission due to the conduct of Mr. Maruschak in the UNDT proceedings, namely, the submission of forged documents. In addition, the UNDT awarded USD 500 in costs against Mr. Maruschak for manifest abuse of proceedings.⁵

10. Mr. Maruschak appealed the UNDT Judgment to the Appeals Tribunal. Mr. Maruschak requested that the UNAT rescind the contested decision, since the facts were not established to the requisite standard. He also sought moral and reputational damages from the Secretary-General's research into his private medical and financial circumstances that uncovered the forgeries.

11. The Secretary-General included in his answer to the appeal, a "motion to reserve the right to appeal". The Secretary-General pointed out that because the UNDT did not rescind the contested decision, and upheld it on different grounds, the Secretary-General could not appeal the UNDT's finding on the merits that the Administration had not established the misconduct to the requisite standard of proof.

² *Ibid.*, paras. 25 – 26.

³ *Ibid.*, para. 48.

⁴ *Ibid.*, paras. 40-42.

⁵ UNDT Judgment, para. 82(c).

UNAT Judgment

12. The UNAT held that the UNDT erred when, upon finding that the Secretary-General failed to prove the lawfulness of the contested decision, it failed to rescind that contested decision pursuant to Article 10(5) of the UNDT Statute.⁶

13. The UNAT further found that the UNDT committed an error of law in basing its refusal to rescind the contested decision on the conduct of Mr. Maruschak during the UNDT proceedings, specifically, Mr. Maruschak's abuse of process.⁷

14. The UNAT therefore reversed the UNDT Judgment and remanded the case for determination of the appropriate remedy under Article 10(5) of the UNDT Statute.

15. The UNAT also agreed that Mr. Maruschak's submission of false and misleading documents to the UNDT constituted a tremendous abuse of judicial process that put the integrity of the entire judicial process into disrepute.⁸

16. The UNAT accordingly held that the UNDT was correct to make an award of costs for abuse of process under Article 10(6) of the UNDT Statute. However, the UNAT characterized the sum of USD 500 as "minimal" and suspected that this low amount was "due to the Dispute Tribunal's confusion of the remedy for an unlawful administrative decision and the remedy for abuse of its judicial proceedings".⁹ Due to the error in the UNDT's methodology for sanctioning abuse of process, the UNAT remanded the case to the UNDT for redetermination of the appropriate quantum for costs for abuse of process.¹⁰

17. Finally, as relevant to this application for interpretation, the UNAT stated in paragraph 104:¹¹

... After the UNDT makes its determination on the Article 10(5) remedy for the unlawful administrative decision and the appropriate quantum for costs pursuant to Article 10(6), the UNDT will then have exercised its full jurisdiction and have finalized its

⁶ UNAT Judgment, para. 89.

⁷ *Ibid.*, para. 93.

⁸ *Ibid.*, para. 99.

⁹ *Ibid.*, para. 102.

¹⁰ *Ibid.*, para. 103.

¹¹ *Ibid.*, para. 104.

judgment. The UNDT may wish to seek additional submissions from parties on these points.

18. On 12 May 2025, the Secretary-General filed an application for interpretation of paragraph 104. Mr. Maruschak did not respond.

Submissions

The Secretary-General's Application

19. The Secretary-General requests that the Appeals Tribunal “clarify whether paragraph 104 of the UNAT Judgment means that when the UNDT renders its decision on Articles 10(5) and 10(6) of the UNDT Statute, the [Secretary-General] may then appeal the UNDT Judgment in its entirety, including the UNDT’s holding on the merits”.¹²

20. The Secretary-General recalls that, pursuant to the UNAT Judgment in *Sefraoui*,¹³ a prevailing party cannot appeal a decision in its favor. Although the UNDT found the disciplinary decision imposed on Mr. Maruschak by the Administration was unlawful, the UNDT did not rescind the decision, and thus the Secretary-General was the prevailing party and could not appeal the UNDT’s determination on the merits.

21. The Secretary-General reminds that in answering Mr. Maruschak’s appeal of the UNDT Judgment, the Secretary-General included in his submissions a request to appeal the UNDT’s holding that the Administration failed to establish by clear and convincing evidence that the disciplinary decision was lawful.

22. The Secretary-General observes that the UNAT did not address his request for leave to appeal the UNDT Judgment on the merits.

23. The Secretary-General notes, however, that in paragraph 104 of the UNAT Judgment, the UNAT stated that “[a]fter the UNDT makes its determination on the Article 10(5) remedy for the unlawful administrative decision and the appropriate quantum for costs pursuant to Article 10(6), the UNDT will then have exercised its full jurisdiction and have finalized its judgment”.

¹² Application form, Section III.

¹³ *Sefraoui v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-048, para. 18.

24. The Secretary-General queries whether paragraph 104 means that after the UNDT renders its decision on Articles 10(5) and 10(6) of the UNDT Statute, the Secretary-General may then appeal the UNDT Judgment in its entirety, including the UNDT's holding on the merits.

Mr. Maruschak's Comments

25. Mr. Maruschak did not file a response to the Secretary-General's application.

Considerations

26. Under Article 10(6) of the Statute of the Appeals Tribunal, judgments of the Appeals Tribunal are final and without appeal, subject to the provisions of Article 11, which provides, in Article 11(3), that either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgment or any portion thereof.

27. Article 25 of the Rules of Procedure of the Appeals Tribunal requires the Appeals Tribunal to decide if any such application for interpretation is admissible and, if so, to issue its interpretation.

28. In accordance with our consistent jurisprudence on the subject, an application for interpretation will be admitted only if the meaning or scope of a judgment is unclear or ambiguous. Interpretation is therefore 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.¹⁴

29. In *Kasmani*,¹⁵ the Appeals Tribunal held that an application for interpretation is not receivable if its actual purpose is to contest a final judgment or to obtain comments on that judgment. It results from the Secretary-General's submission that he is not attempting to have the UNAT re-examine its decision. Although one might argue that the Secretary-General is seeking the UNAT's comments on the UNAT Judgment relating to his right to appeal, we consider that his request is more aptly characterized as a request for clarification given the ambiguity in the UNAT Judgment. The Secretary-General raised the issue of appealing the UNDT's finding on the

¹⁴ *Margaret Mary Fogarty, Robert Sheffer, Monia Spinardi, Astrid Dispert & Minglee Hoe v. Secretary-General of the International Maritime Organization*, Judgment No. 2021-UNAT-1148, para. 49 (internal citation omitted).

¹⁵ *Kasmani v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-064, para. 8.

unlawfulness of the disciplinary measure in the prior UNAT proceedings; however, this was not expressly discussed because the UNAT had held that the UNDT in its Judgment had not fully exercised its jurisdiction. Although we considered this clear, we appreciate that this may have created an ambiguity.

30. In this vein, the Secretary-General seeks interpretation or clarification of paragraph 104 of the UNAT Judgment.

31. Paragraph 104 of the UNAT Judgment under consideration states:

... After the UNDT makes its determination on the Article 10(5) remedy for the unlawful administrative decision and the appropriate quantum for costs pursuant to Article 10(6), the UNDT will then have exercised its full jurisdiction and have finalized its judgment. The UNDT may wish to seek additional submissions from parties on these points.

32. The appropriate interpretation of paragraph 104 is that when the UNDT renders its decision on Article 10(5) and 10(6) of its Statute, the non-prevailing party may then appeal the new UNDT judgment in its entirety, including the UNDT's holding on the merits. It is a trite and universally accepted principle that full exercise of jurisdiction means the tribunal's ability and obligation to decide on all aspects of the case brought before it, including both the merits of the case and any preliminary objections. Once the tribunal has fully exercised its jurisdiction in a matter, the rights and obligations, including the right of appeal flowing therefrom, accrue on the parties automatically. The Appeals Tribunal considers that by stating that only in a future point would the Dispute Tribunal have exercised its full jurisdiction and finalized its judgment, that this necessarily meant that the right to appeal accrued for all issues contained therein. Moreover, the Appeals Tribunal held in paragraphs 92 through 94 of the UNAT Judgment, that the UNDT committed an error of law in declining to rescind the contested decision which it held to be unlawful. It is self-evident that rectifying this error may alter the prevailing party for the purpose of any future appeals. It is only then that the Tribunal or Judge becomes *functus officio*, having performed his office.

33. Accordingly, the Secretary-General's application for interpretation is admissible and granted. Once the UNDT fully exercises its jurisdiction on remedies, all issues are appealable.

Judgment

34. The Secretary-General's application for interpretation of Judgment No. 2025-UNAT-1529 is granted.

Original and Authoritative Version: English

Decision dated this 31st day of October 2025 in New York, United States.

(Signed)

Judge Forbang, Presiding

(Signed)

Judge Sandhu

(Signed)

Judge Sheha

Judgment published and entered into the Register on this 3rd day of November 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar