



Before: Judge Nkemdilim Izuako
Registry: Nairobi
Registrar: Abena Kwakye-Berko

PEGLAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
ALS/OHRM

Introduction

1. The Applicant is a former staff member of the Opération des Nations Unies en Côte d'Ivoire (ONUCI)¹.
2. On 16 November 2017, he filed an application entitled “revision of Judgment No. UNDT/2016/059.”

Facts

3. The Applicant was a locally recruited staff member of ONUCI who served as a Broadcast Technician.
4. In 2011, Côte d'Ivoire was engulfed in a political crisis which resulted in a general breakdown of law and order characterized by general acts of violence.
5. On 6 April 2011, the Applicant was attacked and sustained injury after being hit with rifle butts when armed individuals entered to loot his home.
6. On 14 February 2013, the Applicant filed a claim for compensation for injuries and losses that he attributed to the performance of his official duties as a United Nations staff member.
7. The Advisory Board on Compensation Claims (ABCC) met twice to consider the Applicant’s claim. On 13 November 2014, the Chair of the ABCC recommended to the Secretary-General to reject the Applicant’s claim for compensation. The ABCC’s recommendation was approved without alteration, on behalf of the Secretary-General, by the Officer-in-Charge, Office of Programme Planning, Budget and Account (OPPBA) on 16 November 2014.
8. On 26 March 2015, the Applicant received the decision denying his claim.

¹ United Nations Operation in Côte d'Ivoire (UNOCI).

9. On 2 June 2015, the Applicant filed an application with the Tribunal challenging the ABCC decision to reject his request for compensation. His application was registered as Case No. UNDT/NBI/2015/060. In Judgment No. UNDT/2016/059 dated 13 May 2016, the Dispute Tribunal found that the ABCC did not properly determine the nexus between the Applicant's employment with the United Nations and his injuries and illness².

10. The Tribunal held that the recommendation of the ABCC to deny the Applicant's claim for compensation was unlawful. The Tribunal accordingly rescinded the decision of the Secretary-General to deny the Applicant's claim for compensation for injury and illness and remanded the case to the ABCC for a full and proper consideration of the Applicant's claim.

Applicant's Submissions

11. The Applicant submits this application for revision based on the refusal of the ONUCI Security Investigation Unit to carry out an investigation into the 6 April 2011 incident reported by the Applicant. In his application, he also claims *inter alia* that he was the victim of harassment and a "black out".

Considerations

12. Applications for revision of judgment are governed by art. 12 of the Statute of the Dispute Tribunal and art. 29 of the Dispute Tribunal's Rules of Procedure. The cited articles provide that either party may apply for a revision of an executable judgment based on the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Dispute Tribunal and to the party applying for revision, if such ignorance was not due to negligence.

² In particular, the Tribunal noted that "[s]ome of the material [the ABCC] relied on was derived from the opinion of a non-expert who did not apply the correct principle in art. 2 of Appendix D for determining the nexus between the Applicant's employment with the United Nations and his injuries and illness. In addition, [the ABCC] considered irrelevant evidence and did not take into account relevant evidence that was available to it".

13. The present application for revision is manifestly inadmissible because the Applicant has not brought to the attention of the Tribunal the existence of any new decisive fact which was unknown to the said Tribunal or to himself at the time Judgment No. UNDT/2016/059 was rendered.

14. The issue of the lack of an investigation was properly considered in Judgment No. UNDT/2016/059 where the learned judge observed at para. 26 that “[n]either the host country law enforcement nor the ONUCI Security Investigations Unit carried out an investigation into these incidents or those reported by the Applicant”. Furthermore, the Applicant himself indicated in his application for revision that “those facts exist since the beginning of his case”³. Therefore, there are no grounds for a revision of Judgment No. UNDT/2016/059.

15. The Tribunal takes notice of the fact that the Applicant is self-represented and that in this application for revision, he is mainly attempting to re-open the case which has already been considered by this Tribunal in Judgment No. UNDT/2016/059. However, if the Applicant wishes to challenge a new decision of the ABCC in relation to the incident of 6 April 2011, he is at liberty to properly file an application on the merits.

Judgment

16. In view of the foregoing, it is the judgment of the Tribunal that this application for revision is not receivable and is accordingly dismissed in its entirety.

(Signed)

Judge Nkemdilim Izuako

Dated this 28th day of November 2017

³ “Ces faits existent depuis le début de cette affaire”.

Entered in the Register on this 28th day of November 2017

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi