

UNDT/2012/003, Kiarie-Nyoike

UNAT Held or UNDT Pronouncements

In this case, the Applicant filed an application for revision of the judgment out of time. A decisive or material fact is one that was not known at the time the judgment was given. That fact must be of significant weight such that its application to the case should lead to a revision of the judgment. The Applicant was investigated and later summarily dismissed by UNHCR on allegations of corruption in refugee processing in the Nairobi office of UNHCR. The Applicant was also arrested by the Kenyan Police and charged in a Kenyan Court with various criminal offences, however, the Applicant was later acquitted of all charges. The Applicant is now seeking to have the judgment revised based on acquittal by the Kenyan Courts. Even if the Tribunal were to consider the Kenyan Court's rulings as material and decisive facts, the second condition to be fulfilled for an application for revision is that an Applicant is required to file an application for revision of the judgment within 30 days of the discovery of the material or decisive fact and within one year of the judgment. The Appeals Tribunal in Fagundes and Piskolti held that neither the Dispute Tribunal nor the Appeals Tribunal have been conferred powers to revise decisions of the former UN Administrative Tribunal. With the utmost respect, the Tribunal finds these holdings are incorrect. Even though not expressly stated in the Statute and Rules of Procedure of the Tribunal, the Dispute Tribunal has the power to revise the judgments of the former UN Administrative Tribunal, subject to compliance with the provisions of Article 29 of the Rules of Procedure.

Decision Contested or Judgment/Order Appealed

The Applicant is seeking a revision of former UN Administrative Tribunal Judgment No. 1394 (2004).

Legal Principle(s)

N/A

Outcome

Dismissed as not receivable

Full judgment

[Full judgment](#)

Applicants/Appellants

Kiarie-Nyoike

Entity

UNHCR

Case Number(s)

UNDT/NBI/2010/074

Tribunal

UNDT

Registry

Nairobi

Date of Judgement

6 Jan 2012

Duty Judge

Judge Izuako

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters

Revision of Judgment

Jurisdiction / receivability (UNDT or first instance)

Temporal (ratione temporis)

Applicable Law

Secretary-General's bulletins

- ST/SGB/2009/11

UNDT RoP

- Article 29

UNDT Statute

- Article 7(b)
- Article 8.4

Related Judgments and Orders

2011-UNAT-106

2010-UNAT-057