

# 2013-UNAT-356, Massah

## UNAT Held or UNDT Pronouncements

UNAT considered an application for revision of judgment. UNAT held that the alleged error in the factual findings of UNDT did not constitute circumstances that warranted revision, because none of them would result in the exclusion of the main reasons stated by UNAT in vacating the UNDT judgment and affirming Mr Massah's separation from service for serious misconduct. UNAT held that the application was inadmissible since its goal was to litigate the case de novo as a result of counsel not agreeing with the final judgment, an option which was not provided to the parties by the applicable law. UNAT held that the application for revision did not fulfil the requirements of Article 11(1) of the UNAT Statute and, as such, was not receivable. UNAT rejected the application for revision of judgment.

## Decision Contested or Judgment/Order Appealed

Mr Massah was separated from service on the grounds of serious misconduct in the form of sexual exploitation and abuse. Following a UNDT judgment which found no evidence to establish any act of sexual exploitation on the part of Mr Massah and that he had misused the Organisation's information technology resources by using his computer to store pornographic pictures. In judgment No. 2012-UNAT-274, UNAT reversed UNDT's findings, concluding there was sufficient evidence of sexual exploitation and Mr Massah's dismissal was proportionate with the nature of the misconduct.

## Legal Principle(s)

An application for revision of a final judgment can only succeed if it fulfils the strict and exceptional criteria established under the UNAT Statute, Article 11(1). The Authority of a final judgment – res judicata – cannot be easily set aside.

## Outcome

Revision, correction, interpretation or execution

Full judgment

[Full judgment](#)

Applicants/Appellants

Massah

Entity

MINURSO

Case Number(s)

2013-450

Tribunal

UNAT

Registry

New York

Date of Judgement

28 Jun 2013

President Judge

Judge Adinyira

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters

Revision of Judgment

Applicable Law

UNAT RoP

- Article 24

UNAT Statute

- Article 11.1

Related Judgments and Orders

2012-UNAT-274

2010-UNAT-063

2010-UNAT-026bis