

2018-UNAT-845, Awe

UNAT Held or UNDT Pronouncements

UNAT considered the staff member's application for correction of judgment. The staff member claimed that there was a mistake in paragraph 2 of the former UNAT judgment, contending that it erroneously refers to the COS instead of the CMS. The staff member also contended that the reference to MINUSCA on page 4 is erroneous since the mission he was assigned to was MINUSMA. UNAT noted that paragraph 2 of the judgment merely quoted the facts "as found by the Dispute Tribunal", with a footnote reference to the paragraphs quoted from the UNDT judgment. UNAT further noted that the Secretary-General was correct in arguing that the staff member could have and should have addressed any inaccuracies at the time of his initial appeal and, by failing to do so, the staff member is now estopped from alleging inaccuracies in the UNDT judgment. Moreover, UNAT noted that the modification or correction of the alleged mistakes that are being raised for the first time would not have any bearing on the outcome of the judgment because they were only mentioned as a report of the facts and procedural background of the judgment, neither in the considerations nor in the conclusion. UNAT held that there is no basis for it to find that the two sentences referred to constitute clerical or accidental errors that would require it to issue a correction of judgment. UNAT accordingly dismissed the application.

Decision Contested or Judgment/Order Appealed

Previous UNAT judgment: The Secretary-General appealed the 17 January 2017 UNDT judgment, asserting that UNDT erred in law by requiring the Special Representative of the Secretary-General to refer for disciplinary action the case of the COS of the UNAMI to the Assistant Secretary-General, Office of Human Resources Management, and by awarding the individual USD 3,000 as compensation for the lack of such a referral. The Secretary-General also asserted that UNDT also erred by ruling that the contents of the minutes of the SMT meeting held at UNAMI on 22 January 2014 had to be retracted in order to fully address the individual's

complaint and by awarding USD 15,000 for “stress and moral injury” allegedly caused by the offending remarks in the SMT meeting minutes. UNAT held that UNDT did not err in ordering the removal of the offending references to the individual in the SMT meeting minutes and in informing all recipients of those minutes of the findings of the FFP. UNAT also reduced the amount of compensation that UNDT awarded the individual from USD 15,000 to USD 5,000. UNAT vacated UNDT’s award of compensation for the lack of a referral of the COS for disciplinary proceedings.

Legal Principle(s)

In applications for correction of judgments, inaccuracies must be addressed at the time of an initial appeal, otherwise, an applicant is estopped from alleging them in the future. An application seeking review of a final judgment rendered by UNAT can only succeed if it fulfils the strict and exceptional criteria established under Article 11 of the UNAT Statute.

Outcome

Revision, correction, interpretation or execution

Full judgment

[Full judgment](#)

Applicants/Appellants

Awe

Entity

UNAMI

Case Number(s)

2017-1132

Tribunal

UNAT

Registry

New York

Date of Judgement

29 Jun 2018

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters

Correction of Judgment

Applicable Law

UNAT RoP

- Article 26

UNAT Statute

- Article 11.2

Related Judgments and Orders

2017-UNAT-774