

2021-UNAT-1114, Gudrun Fosse

UNAT Held or UNDT Pronouncements

UNAT considered an application for revision of Judgment No. 2020-UNAT-1008. UNAT considered Ms. Fosse's claim that SCBD/UNEP is an organisational unit within the Secretariat, and as such, UNAT purportedly erred when it deemed her transfer to that unit in effect caused her to relinquish her lien on the Chief of OSS post, which is located within the Secretariat. However, the Tribunal reasoned Ms. Fosse's application was *inter alia* rejected by the UNDT because she had not submitted her claim for constructive dismissal for management evaluation. Therefore, in the absence of this jurisdictional requirement, the alleged error regarding the status of SCBD/UNEP within or outside the Secretariat is of no consequence and is thus not decisive. Regarding Ms. Fosse's reliance on the catch-all or general empowering provision under Article 31 of the Rules, UNAT found because Articles 11 of the Statute and Article 24 of the Rules expressly address revision of judgments, Article 31 of the Rules is not applicable in the present case.

Decision Contested or Judgment/Order Appealed

Previous UNAT judgment: In Judgment No. UNDT/2019/135, UNDT found: (i) Ms. Fosse's claims regarding the issuance of personnel action forms to be moot since the Administration had subsequently issued them; (ii) because of her transfer to SCBD/UNEP, Ms. Fosse was no longer entitled to return to her previous functions of Chief of OSS, as the above entity was purportedly outside the Secretariat, and (iii) her claim regarding an alleged constructive dismissal was not receivable *ratione materiae* because she had not submitted such claim for management evaluation. In Judgment No. 2020-UNAT-1008, UNAT, in its majority opinion, agreed with the UNDT that the applicant's claim of constructive dismissal was indeed not receivable because she had not submitted a timely request for management evaluation. UNAT also found the other issues raised by Ms. Fosse were not receivable because she did not put forward specific grounds of appeal regarding them. The appeal was thus dismissed.

Legal Principle(s)

An applicant for revision of judgment must establish: the existence of a fact, which would be decisive of the appeal in her favour; this decisive fact was unknown to her and to the Appeals Tribunal at the time of the Judgment; ignorance of this fact was not due to her own negligence, that is she could not have reasonably known of the existence of this fact at the time. For an error in the judgment to be “decisive,” it must go to the heart of the judgment and the reasoning for it and must persuade the Tribunal that, had it not acted in reliance of such error, the result of the appeal would have been reversed and in favour of the appellant. Regarding matters which are specifically addressed in the Statute or in the Rules (such as Revision and Interpretation), Article 31 of the Rules is of no moment since the latter applies only to matters that are not expressly provided for.

Outcome

Revision, correction, interpretation or execution

Outcome Extra Text

Application for revision is dismissed.

Full judgment

[Full judgment](#)

Applicants/Appellants

Gudrun Fosse

Entity

UNS

Case Number(s)

2020-1414

Tribunal

UNAT

Registry

New York

Date of Judgement

25 Jun 2021

President Judge

Judge Colgan

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Judgment-related matters

Revision of Judgment

Applicable Law

UNAT RoP

- Article 24
- Article 31.1

UNAT Statute

- Article 11.1

Related Judgments and Orders

2020-UNAT-1008

UNDT/2019/135