

2024-UNAT-1438, Ann-Christin

Raschdorf

UNAT Held or UNDT Pronouncements

The UNAT dismissed the application for revision, finding that none of the alleged new facts were “new facts” for the purpose of Article 11(1) of the UNAT Statute. The alleged new facts either occurred after the issuance of the UNAT Judgment, were known to the Appeals Tribunal, or matters of law.

The UNAT granted the application for correction in part, to the extent that the UNAT agreed with Ms. Raschdorf’s argument that an error arose in paragraph 44 of the UNAT Judgment where the UNAT wrongly referred to the Advisory Board on Compensation Claims instead of the Pension Fund.

Finally, the UNAT dismissed Ms. Raschdorf’s application for interpretation, finding that the UNAT Judgment was clear and comprehensive.

The UNAT dismissed Ms. Raschdorf’s three related motions.

Decision Contested or Judgment/Order Appealed

Ms. Raschdorf, a former UNAMI staff member, contested three administration decisions: (i) the administrative decision not to renew her fixed-term appointment; (ii) the decision of the Division of Healthcare Management and Occupational Safety and Health (DHMOSH) not to recommend her for a disability pension to the United Nations Staff Pension Committee (UNSPC); and (iii) the decision of the Advisory Board on Compensation Claims (ABCC) to reject her claim for compensation on the ground that her claim was time-barred. In Judgment No. UNDT/2022/004, the UNDT dismissed all three applications having found that the applications regarding the non-renewal decision and the ABCC decision were not receivable *ratione materiae* because she had failed to submit them for management evaluation, and the

DHMOSH decision was legal, rational, and procedurally correct.

Ms. Raschdorf appealed.

The UNAT dismissed the appeal. The UNAT held that the UNDT correctly found not receivable Ms. Raschdorf's application with respect to the non-renewal decision and the ABCC's decision given Ms. Raschdorf's failure to request management evaluation. The UNAT found that contrary to Ms. Raschdorf's contention, the non-renewal decision was not taken subsequent to advice from a technical body. As to the ABCC's decision on whether the claim was time-barred, the UNAT found that that decision was not based on a consideration of a medical evaluation but was concerned with the timeliness of the application and thus with an administrative aspect of the ABCC's work. The requirement for management evaluation therefore applied to both decisions. As to the decision not to recommend Ms. Raschdorf for a disability benefit to the UNSPC, the UNAT held that the Dispute Tribunal did not err in fact or law in finding that Ms. Raschdorf had not demonstrated that DHMOSH committed any procedural errors in arriving at the contested decision.

Ms. Raschdorf filed three applications, for correction, interpretation, and revision, respectively, as well as three related motions.

Legal Principle(s)

There must be an end to the litigation and the stability of the judicial process requires that final judgments by an appellate court be set aside only on limited grounds and for the gravest of reasons.

The authority of a final judgment - res judicata - cannot be so readily set aside.

Any application which, in fact, seeks a review of a final judgment rendered by the Appeals Tribunal can, irrespective of its title, only succeed if it fulfills the strict and exceptional criteria established by Article 11 of the Statute of the Appeals Tribunal. Such application is not an additional opportunity for a party to re-litigate arguments that failed at trial or on appeal.

Facts that occur after the issuance of a UNAT judgment are not "new facts" for the purpose of Article 11(1) of the UNAT Statute.

Jurisprudence issued by the UNAT after the Judgment by the UNDT is an issue of law, not of fact.

Interpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubt about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, whatever opinion the parties may have about it or its reasoning, an application for interpretation is not admissible.

Outcome

Revision, correction, interpretation or execution

Outcome Extra Text

Ms. Raschdorf's applications for revision and interpretation of Judgment No. 2023-UNAT-1343 are dismissed.

Ms. Raschdorf's application for correction of Judgment No. 2023-UNAT-1343 is granted partially, in so far as "ABCC" is to be replaced with "UNJSPF" at paragraph 44. The Registry is instructed to make the necessary correction and reissue the Judgment.

Full judgment

[Full judgment](#)

Applicants/Appellants

Ann-Christin Raschdorf

Entity

UNAMI

Case Number(s)

2023-1803

2023-1806

2023-1809

Tribunal

UNAT

Registry

New York

Date of Judgement

8 May 2024

President Judge

Judge Gao

Judge Savage

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Abuse of process before UNDT/UNAT

Judgment-related matters

Correction of Judgment

Interpretation of Judgment

Revision of Judgment

Procedure (first instance and UNAT)

Applicable Law

UNAT RoP

- Article 24
- Article 25
- Article 26
- Article 31.1

UNAT Statute

- Article 9.2
- Article 11
- Article 11.1
- Article 11.2
- Article 11.3

Related Judgments and Orders

2010-UNAT-026bis

2010-UNAT-063

2022-UNAT-1236

2011-UNAT-145

2022-UNAT-1224

2022-UNAT-1288

2021-UNAT-1129