



**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2025-UNAT-1543

**Antonio Ponce-Gonzalez
(Applicant)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT ON APPLICATION FOR REVISION

Before:	Judge Graeme Colgan, Presiding Judge Nassib G. Ziadé Judge Leslie F. Forbang
Case No.:	2024-1910
Date of Decision:	21 March 2025
Date of Publication:	23 May 2025
Registrar:	Juliet E. Johnson

Counsel for Applicant: Self-represented

Counsel for Respondent: Amanda Stoltz

JUDGE GRAEME COLGAN, PRESIDING.

1. Antonio Ponce-Gonzalez, a staff member of the United Nations Security Force for Abyei (UNISFA), applies for revision of Judgment No. 2023-UNAT-1344 (*Antonio Ponce-Gonzalez v. Secretary-General of the United Nations*) issued by the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) on 11 May 2023 (UNAT Judgment).

2. This is one of two applications made contemporaneously by Mr. Ponce-Gonzalez for revision of closely-associated Judgments of the UNAT. We have addressed and decided them in separate Judgments.

3. In the UNAT Judgment, the Appeals Tribunal allowed the Secretary-General's appeal against Judgment No. UNDT/2021/161 (underlying UNDT Judgment). At first instance, the UNDT had granted Mr. Ponce-Gonzalez's application challenging the Administration's actions in respect to his candidacy for the post of Chief, Operations and Resource Management (CORM) at the P-5 level which had been advertised under a Recruit-from-Roster (RFR) exercise. Mr. Ponce-Gonzalez had alleged abuse of authority in cancelling the RFR in violation of the applicable rules following his unlawful disqualification. The UNDT ordered the rescission of the contested decision, in-lieu compensation, and damages for loss of opportunity.

4. Mr. Ponce-Gonzalez seeks to have the UNAT Judgment revised and the underlying UNDT Judgment upheld. For the reasons set out below, the Appeals Tribunal dismisses the application for revision.

Facts and Procedure

5. Mr. Ponce-Gonzalez was at material times a Chief Budget and Finance Officer, serving on a fixed-term appointment at the P-4 level with UNISFA.

6. On 9 October 2018, the Administration advertised in Inspira an RFR exercise under the reference 18-Administration-UNISFA-104637-J-Abyei (RFR 104637) for the position of CORM. Mr. Ponce-Gonzalez applied timeously for the RFR position as a rostered candidate.

7. A Comparative Analysis Report (CAR) raised on 2 December 2018 showed that a total of six rostered applicants, including Mr. Ponce-Gonzalez, were assessed but none was recommended for appointment.

8. Subsequently, on 27 January 2019, the Chief of Mission Support (CMS) cancelled the RFR recruitment exercise that Mr. Ponce-Gonzales had participated in. On 28 January 2019, Mr. Ponce-Gonzalez was notified that the RFR 104637 recruitment exercise had been cancelled but that the post might be re-advertised at a later stage. There then began a long and intense period of continuing litigation about these matters.

9. On 18 March 2019, Mr. Ponce-Gonzalez requested management evaluation of the decision to cancel RFR 104637. In a letter dated 7 May 2019, the Management Evaluation Unit (MEU) informed Mr. Ponce-Gonzalez that his request for management evaluation was premature and was not receivable because the cancellation of RFR 104637 was merely a step in the selection process for the CORM position and was not a final decision amenable to appeal. Mr. Ponce-Gonzalez then challenged the cancellation of RFR 104637 before the UNDT.

10. On 28 May 2020, the UNDT issued Judgment No. UNDT/2020/079 dismissing Mr. Ponce-Gonzalez's application as not receivable, because it lacked jurisdiction to review steps taken preparatory to an administrative decision.

11. Mr. Ponce-Gonzalez appealed. On 26 April 2021, the Appeals Tribunal issued Judgment No. 2021-UNAT-1099, remanding the case to the UNDT for adjudication on the merits.

12. On 23 December 2021, the UNDT issued the underlying UNDT Judgment on the merits. The UNDT concluded that the RFR exercise had been "improperly cancelled" and that Mr. Ponce-Gonzalez's candidacy did not receive full and fair consideration. The UNDT reviewed substantively Mr. Ponce-Gonzalez's Personal History Profile (PHP), concluding that he had "met and exceeded" the requirements for the position as well as the "unpublished desirable criteria for which he was negatively assessed" and that therefore he should have received a "positive assessment". The UNDT granted Mr. Ponce-Gonzalez's application. The Secretary-General, in turn, appealed the underlying UNDT Judgment.

13. On 11 May 2023, this Tribunal issued the UNAT Judgment on the Secretary-General's appeal. The Appeals Tribunal found that the UNDT erred in its consideration of the Administration's assessment of Mr. Ponce-Gonzalez's experience against the evaluation criteria. The UNDT also erred when it rescinded the cancellation of the selection process, invalidating the reason given, i.e., that none of the rostered candidates had met all of the required and desirable criteria of the job, and opining and concluding that at least one of the rostered candidates

(Mr. Ponce-Gonzalez) had met and exceeded all criteria. In so doing, the UNDT improperly misappropriated the Secretary-General's discretion in such matters and imposed its own appointment decision. Furthermore, the UNAT found that the UNDT erred in finding procedural irregularities in the selection process and in finding that the hiring manager had a conflict of interest.

14. Relevant to Mr. Ponce-Gonzalez's current application for revision, the Appeals Tribunal found that, on 1 January 2019, the Secretary-General had issued a Delegation of Authority (DOA) to Heads of Secretariat Entities encompassing the matter of "Human Resources" under Section IV, including with respect to "selection of staff up to and including the D-1 level". That same day, an Accountability Framework for Monitoring the Exercise of Delegated Decision-Making Authority was issued. Shortly thereafter, on 11 January 2019, an Inter-Office Memorandum from the Acting Head of Mission and Force Commander (HOM) to the CMS informed further of a DOA from the HOM to the CMS which included an annexure on the delegation for Human Resource matters. The Appeals Tribunal was satisfied that the 11 January 2019 Inter-Office Memorandum containing the delegation of authority from the HOM to the CMS on matters of Human Resources through its annexure was sufficient evidence that this delegation of authority had been properly effected.¹ In addition, the Appeals Tribunal noted that the cover letter was marked "received" with the official stamp of the CMS office on 7 February 2019. Therefore, the UNAT concluded that the UNDT erred in finding that the documents provided by the Secretary-General did not establish the validity of the delegation of authority.²

15. In its Judgment the UNAT concluded that since no unlawfulness was found in the contested decision to cancel the selection exercise after having afforded Mr. Ponce-Gonzalez's candidacy full and fair consideration, the remedies ordered by the UNDT should be set aside. The Appeals Tribunal granted the Secretary-General's appeal, reversed the underlying UNDT Judgment and dismissed the application in its entirety.

16. On 20 March 2024, Mr. Ponce-Gonzalez filed this application for revision of the UNAT Judgment, and the Secretary-General filed comments on the application on 26 April 2024. The issue of the lawfulness of the delegation of the power to cancel the appointment process is now the focus of this application for revision.

¹ UNAT Judgment, para. 63.

² *Ibid.*, para. 64.

Submissions

Mr. Ponce-Gonzalez's Application

17. Mr. Ponce-Gonzalez claims that newly discovered evidence about the delegation of authority process refutes the Appeals Tribunal's finding that the administrative decision based on the delegated authority was lawful. The newly discovered evidence comprises an e-mail of 29 January 2019 from the office of the HOM allegedly establishing as a decisive fact that on that date the HOM still retained the full authority vested in him by the Secretary-General.³ The e-mail of 29 January 2019 from the office of the HOM scheduled a meeting on that date with the Unit Chiefs of HR, Finance, Procurement, and Property to plan and decide precisely how to subdelegate his authority. Thus, the HOM could not have formally subdelegated his full authority to the CMS on any date before 29 January 2019. In preparation for the meeting, the Unit Chiefs were asked to provide a detailed summary of the authorities to be delegated, including areas of exceptions and limitations of approvals. The Inter-Office Memorandum purportedly dated 11 January 2019, but "received" on 7 February 2019, did not even exist on 29 January 2019. The CMS thus made the contested decisions before the meeting on 29 January 2019 at a time when the HOM had not delegated him full authority.

18. Mr. Ponce-Gonzalez claims that the HOM did not authorise the issuance of his full DOA to the CMS in the portal. The record indicates that on 7 January 2019, the CMS assumed both the roles of delegator and delegatee, with his office subdelegating to him in the portal the full authority of the HOM, retroactively effective from 1 January 2019, and with an arbitrarily set expiry date of 31 December 2019.⁴ The entries in the portal were recorded 22 days before the 29 January 2019 meeting, while the HOM still retained full authority. These entries, made by the CMS, precede by 30 days the purported receipt of the 11 January 2019 Inter-Office Memorandum on 7 February 2019, during which the CMS was absent. They were later backdated to 11 January 2019 to align with decisions he made without proper authority. Newly discovered evidence reveals that the CMS was absent from the Mission for 52 days from 13 January to 6 March 2019⁵ and did not participate in the 29 January 2019 meeting.

³ Application, annex 1.

⁴ *Ibid.*, annex 2.

⁵ *Ibid.*, annex 3.

19. Mr. Ponce-Gonzalez says that he discovered these facts on 21 February 2024 following his perusal of four reports on DOA that the Office of Internal Oversight Services (OIOS) published on its website on 18 February 2024. This publication prompted him to commence, on 21 February 2024 and subsequent days, a thorough review of his historical e-mails and archives. The review led to the discovery on 21 February 2024 of the decisive facts that identified inconsistencies and misrepresentation in the delegation documents and records relied on in the UNAT Judgment. On 22 February 2024, Mr. Ponce-Gonzalez sent an e-mail to his counsel, providing the initial contact for the discovery of this new evidence for this application and confirming the timeline of events.⁶ The application adheres to Article 24 of the Rules of Procedure of the Appeals Tribunal, that is, it was submitted within 30 calendar days of the recent discoveries of these documents and facts and within one year of the date of the UNAT Judgment.

20. Mr. Ponce-Gonzalez further claims that he noticed inconsistencies and a misrepresentation of records during his review of the documents. The stamp from the CMS office could not possibly establish that the HOM, the delegator, issued the Inter-Office Memorandum on 11 January 2019. This was because, in light of the new evidence, on 29 January 2019 the HOM still retained the authority vested in him by the Secretary-General. The Inter-Office Memorandum bearing the date 11 January 2019 only surfaced much later (on 12 October 2021), and in response to the UNDT's Order No. 215 (NBI/2021). This was said to have been produced to conceal the unauthorised contested decision made on 27 January 2019. The underlying UNDT Judgment established that the unreferenced Inter-Office Memorandum lacked the official stamp of the HOM's office as the delegator, but this should not be confused with the CMS's stamp of receipt on 7 February 2019 which may have misled the UNAT.

21. Mr. Ponce-Gonzalez contends that the HOM did not issue the Inter-Office Memorandum of 11 January 2019 on that date or indeed on any other date. Before 28 April 2021, the only delegation instrument known at UNISFA was that of the Secretary-General to the HOM. The meeting of 29 January 2019 with his Unit Chiefs establishes that the HOM had not delegated his authority to the CMS on 11 January 2019. The Inter-Office Memorandum and its annex on Human Resources was never a properly exercised functional delegation of authority. It was not until much later (on 12 October 2021) in response to Order No. 215 (NBI/2021) that the Secretary-General produced, exclusively for the Dispute Tribunal, a hitherto unseen and unreferenced Inter-Office Memorandum to misrepresent that the CMS had possessed the

⁶ *Ibid.*, annex 5.

delegated authority.⁷ At the time of the UNAT Judgment, neither Mr. Ponce-Gonzalez nor the Appeals Tribunal was aware that only the CMS and his office were privy to the existence of this Inter-Office Memorandum. The unreferenced 11 January Inter-Office Memorandum, created independently of the delegation instrument and from the portal entries entered on 7 January 2019, was also not copied to the Under Secretary-General for the Department of Management Strategy and Compliance (DMSPC) as required by Section 2.5 of Secretary-General's Bulletin ST/SGB/2019/2 (Delegation of authority in the administration of the Staff Regulations and Rules and the Financial Regulations and Rules) for all delegations made outside the portal. The Human Resources annexure upon which the UNAT Judgment relied did not exist on 11 January 2019 and was evidently assembled *ex post facto* by the CMS in response to Order No. 215 (NBI/2021).

22. The only officially recognised and known instance wherein the HOM directly addressed a delegation instrument to the CMS was in a later memorandum of 28 April 2021.⁸ The HR delegation instrument that the Secretary-General addressed to the HOM was annexed to the Inter-Office Memorandum of 11 January as the HOM delegation to the CMS, and was presented exclusively to the Tribunal as such, but never promulgated by the HOM. This delegation belonging to the HOM not only included Chapter IV to select and appoint staff up to the D-1 level but also encompassed Chapter IX, which authorised him to separate and terminate staff up to the D-2 level including the HOM. Also included was Chapter X, which authorised him to impose disciplinary measures on staff up to D-2 also including the HOM. The HOM did not issue a subdelegation structure to implement the new authority. In the meeting of 29 January 2019, which the CMS did not attend, the HOM never implemented a subdelegation structure whereby he surrendered his full authority to the CMS.

23. Neither the HOM nor his office was aware of the delegation instrument annexed by the CMS to the Inter-Office Memorandum of 11 January 2019 in response to Order No. 215 (NBI/2021). It is implausible that an acting HOM, however unfamiliar with the Organization's procedures, would willingly relinquish full authority and accountability in the manner suggested by the CMS in the Secretary-General's response of 12 October 2021 to the UNDT. Moreover, the Acting HOM was also responsible for issuing the four letters of subdelegation of 28 April 2021, but this time these were properly copied to DMSPC.⁹ A clear,

⁷ *Ibid.*, annex 6.

⁸ *Ibid.*, annex 7.

⁹ *Ibid.*

well-documented chain of custody would have placed the original delegation document at his office. The HOM could not have provided to the Tribunal a subdelegation document that his letters of 28 April 2021 did not recognise. If the Inter-Office Memorandum of 11 January 2019 had been legitimate, and if the HOM had been aware of its existence, he would have been obligated, according to Section 2.5 of ST/SGB/2019/2, to revoke the CMS's purported full authority and reissue a modified authority. The HOM did not so revoke or recognise and nor was he aware that the CMS had assumed his full authority.

24. On 28 April 2021, the HOM authorised the CMS for the first time to appoint staff at levels no higher than P-3/FS-6 without needing to revoke the purported D-1 authority, i.e., the HOM did not consider that the CMS had been previously subdelegated the D-1 level authority. The response to Order No. 215 (NBI/2021) was prepared by the CMS office, without the awareness of the HOM as the delegator, resulting in the false delegation that the Appeals Tribunal relied on. No record of subdelegation from the HOM existed between 1 January 2019 to 28 April 2021.

25. As of the time of the UNAT Judgment, no subdelegation instrument other than the one dated 28 April 2021 was recognised or promulgated by the HOM. In his separate application for revision of Judgment No. UNAT-1345, Mr. Ponce-Gonzalez claims that new evidence shows that during the audit of the Board of Auditors (BOA) for the Financial Year 21/22, the HOM confirmed that the valid subdelegation for Human Resources was UNISFA-MHQ-HoM-IOM-018-2021 which was promulgated on 28 April 2021. Similarly, an OIOS audit of procurement and contract management at UNISFA for the period 2019-2022 does not refer to the Inter-Office Memorandum of 11 January 2019 that the Secretary-General presented exclusively to the Tribunals to claim that the CMS had delegated authority. Notably, three recommendations to establish accountability refer to that same authority that the CMS misrepresented as his own before the Tribunals.

26. Mr. Ponce-Gonzalez claims that these decisive facts existed before but were unknown to the Appeals Tribunal at the time of the UNAT Judgment. He asserts that they vitiate the Judgment in its entirety since the decision was made in the absence of a lawful delegated authority. Such consideration falls within the meaning of Article 11(1) of the Appeals Tribunal Statute (Statute) due consideration of which should be decisive in warranting a revision of the judgment accordingly.

27. Mr. Ponce-Gonzalez's career opportunities suffered repeatedly as a result of this abuse of authority. It is well-established law that the loss of career opportunities because of improprieties

may constitute irreparable harm. The requirement of proper authority is a fundamental principle of the rule of law.

28. Mr. Ponce-Gonzalez asks that the UNAT Judgment be reversed based on the discovery of the new evidence hereby presented.

The Secretary-General's Comments

29. The Secretary-General submits that Mr. Ponce-Gonzalez's request for revision of the UNAT Judgment constitutes an impermissible attempt to relitigate his case by continuing to seek to challenge the existence of a valid delegation of authority authorising the CMS to cancel the RFR exercise. However, the UNAT Judgment already considered this matter and correctly concluded that "the 11 January 2019 letter containing the delegation of authority from the Head of Entity to the CMS on the matter of Human Resources and its annexure are sufficient evidence that this delegation of authority had been properly exercised".¹⁰ Neither the "facts" nor the "evidence" now referred to by Mr. Ponce-Gonzalez constitute or establish new decisive facts warranting a revision of the UNAT Judgment.

30. First, by Mr. Ponce-Gonzalez's own admission, he found this "evidence" after undertaking a "thorough review of his historical emails and archives". Consequently, the evidence referred to by Mr. Ponce-Gonzalez—and in turn the "facts" upon which he seeks the revision of the UNAT Judgment—were easily within his reach had he shown due diligence and cannot form the basis for the revision of the Judgment. It was Mr. Ponce-Gonzalez's responsibility to submit relevant evidence to support his claims for inclusion in the record before the Tribunal—he did not do so. Accordingly, the application for revision does not meet the criteria under Article 11(1) of the Statute and should be dismissed.

31. Second, the Secretary-General contends that Mr. Ponce-Gonzalez confuses "facts" with the *legal consequences* that he seeks to argue arise as a result of the "evidence" presented in his application for revision. The UNAT has confirmed that (alleged) legal consequences cannot be regarded as facts within the meaning of Article 11(1) of the Statute. In any event, Mr. Ponce-Gonzalez's assertion that the CMS did not have the authority to take the contested decision is not supported by the evidence referred to in the application for revision. Contrary to Mr. Ponce-Gonzalez's assertions, neither the e-mail correspondence relating to the

¹⁰ UNAT Judgment, para. 64.

29 January 2019 meeting nor the CMS's Travel and Expense Report demonstrate that the HOM did not, and could not, have signed the 11 January 2019 Inter-Office Memorandum containing the delegation of authority from the HOM to the CMS on the matter of Human Resources. Consequently, Mr. Ponce-Gonzalez's assertions that the 11 January 2019 Inter-Office Memorandum "did not exist" and was created "ex post facto" are also unfounded.

32. The Secretary-General notes that Mr. Ponce-Gonzalez refers to "new evidence [that] shows that during the audit of the BOA for FY 21/22, the HOM confirmed the valid sub-delegation for [Human Resources] was UNISFA-MHQHoM-IOM-018-2021 promulgated on 28 April 2021" in an apparent further attempt to argue that the 11 January 2019 letter was not valid. However, the Secretary-General submits that Mr. Ponce-Gonzalez does not identify how or when he became aware of this additional "evidence", which comprises a series of e-mail exchanges dated between 1 and 5 October 2022. This would therefore also appear to have been available to him at the time of the UNAT Judgment. In any event, this e-mail exchange also fails to support his assertions: subsequent delegations of authority (whether issued by the same or a different HOM) have no bearing on the existence of the authority delegated to the CMS at the time of the contested decision.

33. The Secretary-General submits that Mr. Ponce-Gonzalez has failed to establish any unknown decisive facts that warrant revision of the UNAT Judgment. The Secretary-General requests that the Appeals Tribunal dismiss the application for revision in its entirety.

Considerations

34. To address the Secretary-General's broad submission that Mr. Ponce-Gonzalez's application should be dismissed because it is no more than an attempt to re-litigate a case that has been finally decided, it is necessary to repeat briefly what has been said about this argument in previous judgments. The principle of litigation finality expressed in the Latin phrase *res judicata* will generally disallow re-litigation of a final judgment even dressed up as a permitted application such as one for revision of that final judgment. But there exist statutory grounds for applications for revision which do permit a re-examination of a final judgment and, if warranted, its alteration, if a combination of strict tests is met. Even then, establishing grounds for a revision does not necessarily open the door to a wider review of the grounds for the original judgment.

35. Shorn of the detail in Mr. Ponce-Gonzalez's submissions summarised above, he brings before this Tribunal allegations that an official claiming to have delegated authority to make

specific decisions purported to act on that authority which he did not hold and knew he did not hold; that when required by the UNDT to produce the documentation evidencing that delegated authority, the official forged a document purporting falsely to establish that authority; the official wilfully misled the UNDT and then on appeal, the UNAT, by persuading these judicial bodies to accept these false premises; and, thereby, the official perverted the course of justice depriving Mr. Ponce-Gonzales of a judgment to which he was and is entitled in law.

36. The recruitment process originally challenged by Mr. Ponce-Gonzales included significant participation by the CMS as hiring manager. The issue of the hiring manager's delegated authority which is the subject of this application for revision was determined by the UNDT as having been unmeritorious, as was Mr. Ponce-Gonzalez's assertion that the Administration had manipulated the evidence about this.

37. The relevant elements affected by the current application are set out at paragraphs 60–64 of the UNAT Judgment. They reveal that one of Mr. Ponce Gonzalez's arguments was that "the hiring manager acted without authority". We are thus satisfied that this was previously an issue before the UNAT.

38. An application for revision of a UNAT judgment must meet all of several tests under Article 11(1) of the Statute. First, there must be disclosed a new decisive fact or facts that will cause the outcome of the original appeal to be set aside and the appeal decided otherwise than it was previously. Second, the decisive fact(s) must, at the time the Appeals Tribunal's decision was rendered, have been unknown to both the applicant and to the Tribunal. Third, that ignorance cannot be attributable to the applicant's negligence. Fourth and finally, an applicant must apply for revision within 30 calendar days following the discovery of the decisive fact and within one year of the date of the judgment which is the subject of the application for revision.

39. Thus, Article 11(1) creates a narrow and conditional exception to the finality and unassailability of judgments of the UNAT. It recognises that information relevant to an appeal may sometimes only come to the Appeals Tribunal's notice after delivery of a final judgment between parties and that the interests of justice may require that such information is considered by the Tribunal.

40. There being no issue with the timing of Mr. Ponce-Gonzalez's revision application we move to the next cumulative test, the decisiveness of the new fact or facts discovered after the proceeding

was before the UNAT. The requirement for decisiveness means that the new fact or facts must necessarily bring about a revision of the decision made previously on appeal. Unless the new fact or facts as evidence bring about this result, revision must be refused.

41. What are the new facts subsequently discovered by Mr. Ponce-Gonzalez upon which he relies in this application? First, there is an e-mail dated 22 January 2019 referring to “Preparation of the Meeting on delegation of authority RESCHEDULED FOR MONDAY 28th January [2019]” because of a calendar conflict for the Chief Human Resources Officer (CHRO) who was to be attending a Virtual TeleConference at the same time as this meeting was originally scheduled.¹¹ Mr. Ponce-Gonzalez says that this establishes, “as a decisive fact”, that as of that date (22 January 2019), the HOM retained full authority as delegated to him by the Secretary-General.

42. Second is a document recording the relevant delegation having been issued on 7 January 2019 and having retroactive validity from 1 January 2019 to (what he says was an arbitrary date) 31 December 2019. The Applicant says that on 7 January 2019 the CMS assumed “in the portal” roles as both delegator (HOM) and delegatee.¹²

43. Third is a Travel Expense Report of the CMS which Mr. Ponce-Gonzalez submits shows that the CMS was absent from the Mission between 13 January and 6 March 2019 and thus did not participate in the 29 January 2019 meeting.¹³

44. Fourth is an Audit Report (2024/001) of the OIOS Internal Audit Division, issued on 18 January 2024, on whether the delegation of authority was satisfactorily implemented within the United Nations Environment Programme.¹⁴

45. Fifth is an e-mail from Mr. Ponce-Gonzalez to his counsel on 22 February 2024, recording Mr. Ponce-Gonzalez’s discovery of the new evidence he asserted proved that there had not been a lawful delegation but also that he did “not intend to reargue the case”.¹⁵ The Applicant says that this establishes (or perhaps, more correctly, corroborates) the dates on which he made these discoveries.

¹¹ Application, annex 1.

¹² *Ibid.*, annex 2.

¹³ *Ibid.*, annex 3.

¹⁴ *Ibid.*, annex 4.

¹⁵ *Ibid.*, annex 5.

46. Sixth is the document that is the subject of the present dispute, namely, the Inter-Office Memorandum of 11 January 2019 including the annexure on Human Resources.¹⁶ Mr. Ponce-Gonzalez says that this document corroborates his discoveries referred to above.

47. Seventh is an e-mail string commencing on 28 April 2021 and concluding on 5 June 2021 evidencing other delegations of authority within the Organization.¹⁷ Mr. Ponce-Gonzalez says that these evidence the fact that the impugned documentation was created first and only to respond to the UNDT's requirement to produce specified documents that did not otherwise exist previously.

48. Last, Mr. Ponce-Gonzalez attaches later delegation documents evidencing renewals of delegations. He says that these evidence the only instance in which there had been a direct delegation from the HOM to the CMS and that, as subsequently occurred, the HOM should have copied in the DMSPC but did not.

49. We focus on the first three documents summarised above. The subsequent ones are either self-serving documents created by Mr. Ponce-Gonzalez establishing dates which are not in issue or are documents that were available to him by the exercise of reasonable diligence before the Appeals Tribunal rendered its Judgment.

50. We agree with the Secretary-General that the documents discovered by Mr. Ponce-Gonzalez in February 2024 (but not those which were known or available to him before his appeal was decided that he had not submitted), go only so far as to suggest the possibility that lawful delegation of authority to make the impugned decision had not occurred before that decision was made. Mr. Ponce-Gonzalez's case requires two further elements to reach that high standard for a revision of the result by way of application. First, he relies on other documents in his files which he held even before the proceedings before the UNDT but did not produce or otherwise rely on. Second, he relies on the UNAT drawing a number of inferences or conclusions about the Administration's conduct (amounting to forgery and perversion of the course of justice) to establish that requirement of decisiveness of the new fact(s).

51. As Mr. Ponce-Gonzalez's submissions themselves point out, it was only when existing documents already held by him but not presented to the UNDT are married up with the new documented facts summarised above, could it be said that those new facts arguably become

¹⁶ *Ibid.*, annex 6.

¹⁷ *Ibid.*, annex 7.

decisive of the earlier appeal. The strict statutory test is, however, that the newly discovered facts/documents must themselves be decisive of the appeal.

52. In these circumstances, the new fact(s) do not meet the statutory requirement for decisiveness on the outcome of the earlier appeal and so the application for revision requiring all four elements outlined earlier in this Judgment to be established is not met. Accordingly, the application for revision fails and must be dismissed.

Judgment

53. Mr. Ponce Gonzalez's application for revision is dismissed.

Original and Authoritative Version: English

Decision dated this 21st day of March 2025 in Nairobi, Kenya.

(Signed)

Judge Colgan, Presiding

(Signed)

Judge Ziadé

(Signed)

Judge Forbang

Judgment published and entered into the Register on this 23rd day of May 2025 in New York, United States.

(Signed)

Juliet E. Johnson,
Registrar