



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

Judgment No. 2025-UNAT-1544

**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.:	2024-1911
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-1345 of the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) dated 11 May 2023 (*Antonio Ponce-Gonzalez v. Secretary-General of the United Nations* (UNAT Judgment)).
2. In the UNAT Judgment, the Appeals Tribunal dismissed Mr. Ponce-Gonzalez's appeal against Judgment No. UNDT/2022/029 (UNDT Judgment) of the United Nations Dispute Tribunal (UNDT or the Dispute Tribunal) by which the UNDT had dismissed his application asserting a failure to afford full and fair consideration to his candidacy for a P-5 post of Chief, Operations and Resource Manager (CORM) in UNISFA, and resulting in his non-selection (contested decision).
3. This is the second of two applications from Mr. Ponce-Gonzalez for revision of UNAT judgments determined in the UNAT's March 2025 session. Because the applications relate to separate judgments of this Tribunal, we have decided them in separate judgments.¹
4. 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 31 August 2020, the Administration issued a job opening for the position known as CORM, at the P-5 level, with UNISFA. The position was advertised in Inspira as a Recruit-from-Roster (RFR) exercise, open exclusively to candidates already on a roster. Mr. Ponce-Gonzalez applied for the position on 14 September 2020.
7. On 14 December 2020, Mr. Ponce-Gonzalez became aware that a selection decision for the CORM had been made and that he had not been selected for the position. On 5 January 2021, Mr. Ponce-Gonzalez requested management evaluation of the contested decision. On 17 February 2021, the Administration upheld the contested decision.

¹ The other Judgment issued this same day is *Antonio Ponce-Gonzalez v. Secretary-General of the United Nations*, Judgment No. 2025-UNAT- 1543.

8. On 18 May 2021, Mr. Ponce-Gonzalez filed an application with the UNDT contesting the alleged failure of the Administration to afford full and fair consideration to his candidacy for the position.

9. On 17 January 2022, the UNDT directed (albeit expressing this as a “request”) the Secretary-General to produce to the Dispute Tribunal evidence of the Chief of Mission Support (CMS)’s delegated authority to make appointments at the P-5 level (as the CORM was in UNISFA). That Dispute Tribunal’s direction was to be complied with by 25 January 2022.

10. On 25 March 2022, the Dispute Tribunal issued its Judgment, dismissing the application, deciding that the decision not to select Mr. Ponce-Gonzalez for the position had been lawfully taken. The UNDT found that it was within the Administration’s discretion to select the successful candidate for the position and that, even absent any of the irregularities that he had alleged, Mr. Ponce-Gonzalez had not demonstrated that he had a significant chance of selection. The UNDT further held that Mr. Ponce-Gonzalez’s claims concerning the import of various conclusions of the UNDT and the Appeals Tribunal in other non-selection challenges brought by Mr. Ponce-Gonzalez, were not dispositive of his case. It concluded that there was no merit in his assertion that the Administration had manipulated the evidence regarding the hiring manager’s delegated authority, and that there was no evidence that the vacancy announcement for the job opening had been tailored to exclude his candidacy.

11. On 23 May 2022, Mr. Ponce-Gonzalez filed an appeal of the UNDT Judgment. On 11 May 2023, the Appeals Tribunal issued the now impugned UNAT Judgment, dismissing Mr. Ponce-Gonzalez’s appeal and affirming the UNDT Judgment.

12. The Appeals Tribunal dismissed Mr. Ponce-Gonzalez’s argument of apprehension of partiality of the hiring manager claiming that there was an improper motive to unfairly eliminate him. The Appeals Tribunal found that the mere fact that the hiring manager was involved in two selection exercises in which Mr. Ponce-Gonzalez was not successful did not indicate any partiality.² Rather, it was a regular exercise of the Administration’s routine of selecting candidates for advertised positions.

13. The UNAT further decided that the UNDT did not err in finding no irregularity in the delegation of authority. The UNDT did not err in rejecting Mr. Ponce-Gonzalez’s assertions that the

² UNAT Judgment, para. 29.

Administration had mismanaged the evidence regarding the hiring manager's delegation of authority and in finding that the subdelegation procedure had been properly followed.³

14. The UNAT was satisfied that the UNDT did not err in finding that Mr. Ponce-Gonzalez's candidacy was given full and fair consideration; that there was no evidence of his significant chances of selection over the selected candidate, nor of any procedural irregularities; and that the hiring manager's assessment was proper when comparing the Personal History Profiles (PHPs) of the selected candidate and that of Mr. Ponce-Gonzalez. The UNAT found that despite Mr. Ponce-Gonzalez's relevant experience and competence in a number of areas as acknowledged by the comparative review in the selection exercise, he was not considered suitable for the position. The Administration did not ignore his previous experience but rather found that it was not sufficient for the position.⁴ Further, the UNAT concluded that there was no evidence that the exercise of discretion in assessing the comparative review was such that the contested decision was arbitrary, discriminatory or irregular.

15. On 20 March 2024, Mr. Ponce-Gonzalez filed this application for revision of the UNAT Judgment.

Submissions

Mr. Ponce-Gonzalez's Application

16. Mr. Ponce-Gonzalez claims that newly discovered evidence refutes the Appeals Tribunal's finding that the administrative decision taken on the delegated authority was lawful. Mr. Ponce-Gonzalez and the Appeals Tribunal were unaware of the decisive fact that the UNAT Judgment relied on, i.e. the 12 December 2019 letter and its annex containing a false certification. The newly discovered evidence comprises an e-mail of 29 January 2019 from the office of the Head of Mission (HOM) establishing as a decisive fact that on that date the HOM still retained the full authority vested in him by the Secretary-General. 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

³ *Ibid.*, para. 33.

⁴ *Ibid.*, paras. 37-38.

summary of the authorities to be delegated, including areas of exceptions and limitations of approvals.

17. Mr. Ponce-Gonzalez claims that in the transition between the departing HOM and the arrival of the new HOM, the subdelegation issued by the departing HOM on 11 January 2019 would, if exercised properly, have remained in effect. The Appeals Tribunal based its Judgment on the delegation of authority (DOA) in the memorandum dated 12 December 2019 and its accompanying annexure, which was used solely to extend the same unauthorised delegation initially entered into the portal by the CMS on 7 January 2019. This decisive new fact is significant evidence of a renewal of a delegation of authority that had not been issued by the HOM to the CMS at the time of the entries in the portal. Consequently, the memorandum dated 12 December 2019, and its annexure served to prolong the same delegation that the previous HOM had not sanctioned. At the time of the UNAT Judgment, neither the Appeals Tribunal nor Mr. Ponce-Gonzalez was aware that only the CMS was privy to the existence of this purported delegation. Both the memorandum of 12 December 2019 and the delegation instrument were compiled exclusively for the Dispute Tribunal, in response to UNDT Order No. 008 (NY/2022), without any involvement from the HOM. The Appeals Tribunal thus relied in its Judgment on documents that reflect the renewal of a false delegated authority.

18. Mr. Ponce-Gonzalez asserts that his discovery of these new facts occurred on 21 February 2024 following his perusal of four reports on DOA that OIOS published on its website on 18 February 2024. This 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 of the decisive facts that identified inconsistencies and misrepresentation in the delegation documents and records relied upon in the UNAT Judgment. On 22 February 2024, he sent an e-mail to his counsel, providing the initial contact for the discovery of this new evidence for this application thus confirming the timeline of events.⁵ This application for revision adheres to Article 24 of the Rules of Procedure of the Appeals Tribunal, because 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.

19. Mr. Ponce-Gonzalez claims that the alleged new facts should be considered decisive warranting revision of the UNAT Judgment. The CMS devised a system of renewals that does not

⁵ Application, annex 5.

exist in ST/SGB/2019/2 (Delegation of authority in the administration of the Staff Regulations and Rules and the Financial Regulations and Rules) to retain the HOM's full authority in the portal by replicating the same false delegation letter with each new HOM. The memorandum of 12 December 2019 contains a false certification. A comparison of HR authority documents confirms they belong to the HOM, not the CMS. A further comparison, focusing on non-delegated authority, confirms both as HOM delegation instruments. The HOM addressed a delegation instrument to the CMS only once, in the inter-office memorandum of 28 April 2021. The document annexed as the HR delegation instrument from the HOM to the CMS was never developed for the CMS. The DOA attached to the memorandum of 12 December 2019 was the Secretary-General's DOA to the HOM. The acting HOM would not have willingly relinquished his full authority to the CMS as presented to the Dispute Tribunal in response to UNDT Order No. 15 (NBI/2021).

20. Mr. Ponce-Gonzalez submits that the HOM did not clear or issue the Secretary-General's reply to UNDT Order No. 008 (NY/2022). Neither the HOM nor his office was aware of the delegation instrument annexed by the CMS to the memorandum of 12 December 2019 in response to the UNDT Order No. 15 (NBI/2021) on 25 January 2022. The Acting HOM at the time of submissions to the UNDT was also responsible for issuing the four letters of subdelegation on 28 April 2021.⁶ A clear, well-documented chain of custody would have placed the memorandum of 12 December 2019 and the delegation instrument in the Acting HOM's office. It seems implausible that the Acting HOM provided a delegation of authority to the Dispute Tribunal that his letters of 28 April 2021 did not recognise. If the memorandum of 12 December 2019 had been legitimate, as asserted by the Secretary-General and upheld by the UNAT, and if the HOM had been aware of its existence, then according to Section 2.5 of ST/SGB/2019/2 he would have been obligated to revoke the CMS's purported full authority and reissue modified authorities. However, the HOM did not revoke, recognise or indeed was even aware that the CMS had his full authority in the portal.

21. Mr. Ponce-Gonzalez further claims that the system of false delegation was uncovered by the Board of Auditors during the FY/21/22 audit. Except for the four letters dated 28 April 2021, all delegation letters were drafted and prepared by the CMS. The records indicate that the irregular delegation process was controlled by the CMS. The letter, DOA instrument, and portal entries upon which the UNAT Judgment relied, show that the HOM did not issue the subdelegation but it was instead prepared by the CMS exclusively in response to the request from the Dispute Tribunal.

⁶ *Ibid.*, annex 6.

The perpetuation of false delegation through unauthorised renewals and misrepresentation of documents tainted the entire delegation process, thereby invalidating the basis of the UNAT Judgment.

22. Mr. Ponce-Gonzalez submits that the absence of a lawful delegated authority warrants a revision of the UNAT Judgment as it vitiates in their entirety the findings of propriety in the Judgment. Such re-consideration falls within the meaning of Article 11 (1) of the Appeals Tribunal Statute (Statute) given the unlawfulness of the contested decision and abuse of the Secretary-General's and the HOM's authority.

23. Mr. Ponce-Gonzalez requests that the Appeals Tribunal rescind the UNAT Judgment.

The Secretary-General's Answer

24. The Secretary-General submits that Mr. Ponce-Gonzalez has not presented any new decisive facts capable of warranting the revision of the UNAT Judgment. As Mr. Ponce-Gonzalez's arguments in relation to the delegation of authority are entirely dependent upon the arguments raised in his application for revision of Judgment No. 2023-UNAT-1344, they also fail to meet the statutory prerequisites for an application for revision and Mr. Ponce-Gonzalez's application for revision in the present case should also be rejected.

25. The Secretary-General contends that Mr. Ponce-Gonzalez refers to a series of e-mail exchanges between the Board of Auditors and the (new) HOM concerning two different delegations of authority, both dated 28 April 2021. This is in an apparent attempt to further demonstrate that "the HOM did not issue the [12 December 2019] sub delegation, but it was instead prepared by the CMS exclusively for the Tribunal". Mr. Ponce-Gonzalez makes no effort to identify how or when he became aware of this series of e-mail exchanges, which are dated between 1 and 5 October 2022 and which would therefore have been available to him at the time of the UNAT Judgment. This exchange therefore cannot form the basis of an application for revision as Mr. Ponce-Gonzalez has failed to demonstrate that he was not aware of it at the relevant time and that this ignorance was not due to negligence.

26. The Secretary-General submits that, in any event, the Appeals Tribunal in the present case correctly confirmed that subsequent delegations of authority (whether issued by the same or a different HOM) were irrelevant for the purposes of the present case. Mr. Ponce-Gonzalez clearly

disagrees with the UNAT Judgment; however, no party may seek revision of a judgment merely because he or she is dissatisfied with it and wants to have a second round of litigation.

27. The Secretary-General submits that Mr. Ponce-Gonzalez’s “repeated and spurious efforts” to challenge the existence of a valid delegation of authority authorising the CMS to make the selection decision in the present case therefore cannot form the basis for the revision of the UNAT Judgment. His continued insistence that the Administration manipulated the evidence presented before the UNDT is also wholly inappropriate and the Secretary-General strongly objects to these allegations.

28. The Secretary-General requests that the Appeals Tribunal dismiss the application for revision in its entirety.

Considerations

29. Mr. Ponce-Gonzalez seeks to introduce the same “new” facts on this application as he does in UNAT Case No. 2024-1910, although to address a different issue than that dealt with by Judgment No. 2023-UNAT-1344.⁷ Because separate judgments were originally issued on Mr. Ponce-Gonzalez’s appeals, so too we are issuing separate judgments on the respective applications for revision.

30. 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 principle 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.

31. 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

⁷ *Antonio Ponce-Gonzalez v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1344.

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-Gonzalez of a judgment to which he was and is entitled in law.

32. The relevant elements affected by the current application are set out at paragraphs 30 – 33 of the UNAT Judgment. They reveal that one of Mr. Ponce Gonzalez’s arguments was that “there was no proper subdelegation of authority from the [HOM] to the [CMS]”.⁸ We are satisfied that this was an issue before the UNAT.

33. An application for revision of a UNAT judgment must establish all of several tests under Article 11 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 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 the period of 30 calendar days following the discovery of the decisive fact and within one year of the date of the judgment that is the subject of the application for revision.

34. Article 11(1) of the Statute thus creates a narrow and conditional exception to the otherwise finality and unassailability of judgments of the UNAT. It recognises that information relevant to an appeal may sometimes only come to the 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.

35. There being no issue with the timing of Mr. Ponce-Gonzalez’s revision application we move to the next cumulative test for revision, the decisiveness of the new fact or facts discovered after his appeal 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.

36. 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

⁸ UNAT Judgment, para. 30.

of the Meeting on delegation of authority RESCHEDULED FOR MONDAY 28th January [2019]” because of a calendar conflict for the Chief Human Resources Officer who was to be attending a Virtual Teleconference at the same time as originally scheduled.⁹ 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.

37. Second is a document recording the relevant delegation having been issued on 7 January 2019 and having a retroactive validity from 1 January 2019 to (what he says was an arbitrary date), 31 December 2019.¹⁰ The Applicant says that on 7 January 2019 the CMS assumed “in the portal” roles as both delegator (HOM) and delegatee.

38. Third is an Audit Report (2024/001) of the OIOS Internal Audit Division dated 18 January 2024 on an audit of delegation of authority at the United Nations Environment Programme, which Mr. Ponce-Gonzalez submits was a discussion of issues with delegations of authority that prompted his review of his historical e-mails.¹¹

39. Fourth is an e-mail from Mr. Ponce-Gonzalez to his counsel on 22 February 2024 recording his discovery of the new evidence he asserted proved that there had not been a lawful delegation but also noting that he did “...not intend to reargue the case...”.¹² Mr. Ponce-Gonzalez says that this establishes (or perhaps, more correctly, corroborates) the dates on which he made these discoveries.

40. Fifth is a document filed by the Secretary-General in response to UNDT Order No. 008 (NY/2022) annexing thereto a number of documents. Included among these documents is the memorandum dated 12 December 2019 evidencing a formal delegation from the HOM to CMS of the authority to manage, among other things, Human Resources.¹³ Mr. Ponce-Gonzalez says that this document likewise corroborates his discoveries referred to above.

41. Sixth is an e-mail string commencing on 28 April 2021 and concluding on 5 June 2021 evidencing other delegations of authority within the Organization.¹⁴ Mr. Ponce-Gonzalez says that

⁹ Application, annex 1.

¹⁰ *Ibid.*, annex 2.

¹¹ *Ibid.*, annex 3.

¹² *Ibid.*, annex 4.

¹³ *Ibid.*, annex 5.

¹⁴ *Ibid.*, annex 6.

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.

42. Seventh is the 28 April 2021 inter office memorandum containing the renewal of the delegation of authority from the HOM to the CMS.¹⁵ The Applicant 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.

43. Eighth is an e-mail exchange amongst individuals working with the Board of Auditors which Mr. Ponce-Gonzalez claims is proof that the only valid subdelegation is that made on 28 April 2021 and not any earlier.¹⁶

44. We focus on the first three annexures summarised above. The subsequent ones are either self-serving documents created by the Applicant establishing dates which are not in issue or are documents that were available to him by the exercise of reasonable diligence before the UNAT delivered its Judgment.

45. 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 and that he had not submitted), go only so far as to suggest the possibility that lawful delegation of authority to make the contested 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).

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

¹⁵ *Ibid.*, annex 7.

¹⁶ *Ibid.*, annex 8.

47. In these circumstances, the new fact(s) do not meet the statutory requirement for decisiveness of the earlier appeal and so the requirement for 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

48. 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