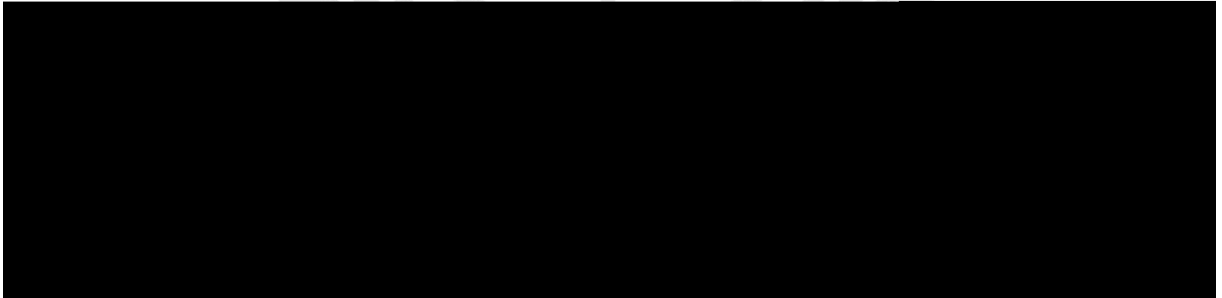
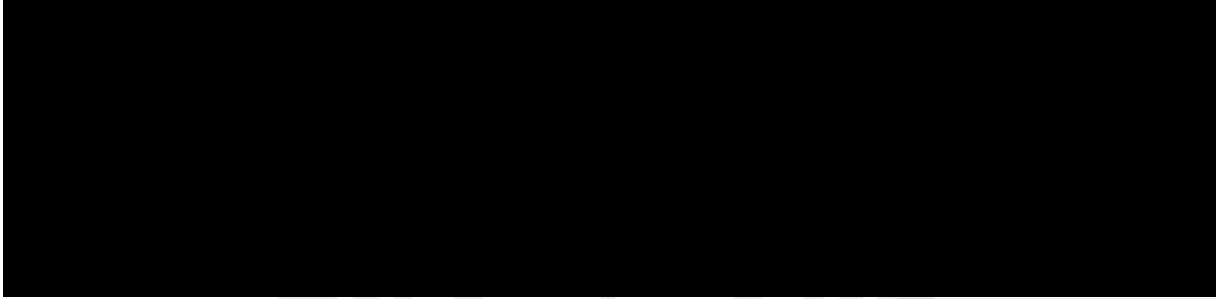

Judgment No. 2021-UNAT-1152



Counsel for Applicant:

Self-represented

Counsel for Respondent:

ac! el "#ers

9. On 2 September 2018 (r. 4a55out re5uested re#ie> of ! is Jul: and August mont! l: e<tensions. On 22 November 2018 t! e *irector of UN OA . perations& %aAa 6*U. 8%7 accepted (r. 4a55out;s re5uest and reinstated !im to !is 1*C post& retroacti#el: from 1 . cto/er 201B for t! ree mont!s t! roug! =1 *ecem/er 201B. On 2- November 2018 !e accepted t! e offer of t! is t! ree-mont! e<tension of ! is 1*C.

,. \$et>een 2= November 2018 and 2= ?e/ruar: 201-& (r. 4a55out filed t! ree applications >it! t! e UN OA *ispute Tri/unal against: i7 t! e Jul: 201B mont! l: e<tension¸ ii7 t! e August 201B mont! l: e<tension¸ and iii7 t! e . cto/er-*ecem/er e<tension. On

for the first time on appeal and could therefore not be allowed unless (r. 4a55out showed exceptional circumstances for their admission >!)ic! !e failed to do. The UNAT therefore dismissed the appeal and affirmed the UN OA *T Judgment.

10. (r. 4a55out received the Arabic translation of the UNAT Judgment on 2- January: 2021.
11. . n =1 Januar: 2021& (r. 4a55out filed an application seeking re#ision of the Appeals Tribunal Judgment. The Commissioner-%eneral filed his comments on = (arc! 2021.
12. . n 5 . cto/er 2021& (r. 4a55out filed another application&t! is one for correction of the

25 Jul: 201B and that it was owing to re-emplo: 2B staff members lose service and been terminated through pseudo-voluntary retirement the total being 119 staff members in accordance with the emergency agreement.

15. The third fact relates to the following announcement made by the Local Staff Union president on his personal Facebook page on 2 December 2020: The Union was saddened to the tune of \$220,000. Staff salaries were paid out of our union accounts for fear of arbitrary separation. (r. 4a55out became aware of this fact on 2 December 2020 when searching on the Facebook page of the Local Staff Union president.

19. (r. 4a55out contends that the document Annex 3: Separation reveals that 11 staff members were separated and a total of 2, staff members were affected by the emergency appeals budget. There was therefore an error of fact and procedure and because that information conflicts with the Commissioner-General's decision as set out in the UN OAT and UNAT judgments which state that a total of 11 staff members would be separated and a total of 21 staff members would be affected by the emergency appeals budget. That in turn shows that the U. 8% overstepped the decision of the Commissioner-General by increasing the number of separated staff members from 11 to 11 and hence increasing the number of affected staff members from 21 to 2.

1. The above demonstrates that the U. 8% wrongfully took advantage of the Commissioner-General's decision of 5 Jul: 201B by deciding to end his service and decline to extend his contract using the pretext of the financial crisis. That is true for the following reasons. First (r. 4a55out received no end-of-service compensation and financial entitlements or pro-rata fund amounts or an ex-gratia payment in return for signing the separation agreement according to the emergency agreement. Second the Commissioner-General and the Local Staff Union said that it had reinstated all the staff members belonging to the group of 9B but (r. 4a55out was not reinstated. Third all the staff members who were separated owing to the financial crisis at UN OAT received letters stating that their post was abolished and serving notice of provisional redundancy as per Judgment No. UN OAT 8201-8022. Moreover the letter to (r. 4a55out stated that his contract would not be renewed.

1B. From the first and second facts the Applicant concludes that the U. 8% wrongfully took advantage of the UN OAT financial crisis and of the discretionary authority granted to him by the Commissioner-General. The Appeals Tribunal and (r. 4a55out were misled into thinking that the

As on the list of 11 separated staff members referred to in paragraph 10, of the UNAT Judgment, the Commission did not agree to end his service and/or dismiss him owing to the financial crisis. The Administration did not act in good faith towards Mr. Boutwell and the Aa regional office took advantage of the Commissioner's decision of 5 July 2018 to impose a disguised disciplinary measure connected with his disciplinary case which consisted of ending his service without waiting for the definitive results of the inquiry into the case which is the real reason for his termination.

1-. (According to the statements made by the *U. 8% conflict with paragraph 10 - of the UN OA

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22. The facts reiterated /: (r. 4a55out concern issues relating to the categories of staff that were affected following a series of emergency measures that at the Agency too+ I and cannot /e considered decisive in reacting to the original decision.

2=. Assuming *arguendo* that (r. 4a55out is presenting new facts >it! regard to the alleged first fact (r. 4a55out admits that the +new a/out the letter on 1B No#em/er 2020. It is also apparent that (r. 4a55out +new of the second and third facts. (r. 4a55out does not even state >! en !e discovered the decisive facts and as such supports the contention that the >as a>are of the facts.) e makes no indication >! et! er the facts & at the time the Judgment >as rendered & >ere un+no>n to the Appeals Tribunal and the parties applying for revision.

22. The arguments advanced /: (r. 4a55out do not fall >it! in Article 11617 of the UNAT Statute or Article 22 of the UNAT Rules of Procedure & the Rules. None of the contentions for revision constitutes a decisive fact >! ic! >as & at the time the judgment >as rendered &

2, . The elements necessary for a revision are therefore first that a decisive fact must have been discovered. The fact must be decisive in

2- Januar: 2021: Ara/ic translation of Judgment sent to (r. 4a55out
 =1 Januar: 2021: Application for re#ision of Judgment filed /:
 (r. 4a55out

=0. O!at is to DrenderE a @udgment of t!e UNAT and >!en is a @udgment renderedJ
 T!e UNAT Statute and rules are not particularl: !elpful in t!is e#ercise. Nor too is t!e
 Appeals Tri/unal;s recent practice during t!e current C. K3*-1- pandemic of releasing
 @udgments ot!er t!an /: our pre#ious practice of announcing t!e outcomes in pu/lic session
 in Ne> Lor+ at t!e end of eac! session.

=1. *ifferent >ords are used to descri/e t!e process of issuing and /ringing @udgments
 to t!e notice of t!e parties. Article 2 of t!e Statute refers to t!e Ddeli#er:E of @udgments.
 Article 9 of t!e Statute and Article 20 of t!e rules /ot! refer to t!e Dpu/licationE of @udgments
 /ut at least in t!e rules >!ic! must follo> and cannot contradict t!e Statute&t!is appears to
 refer to t!e pu/lication on t!e UNAT;s >e/site of all @udgments and to t!e >orld in general
 rat!er t!an t!e ad#ice of t!e outcomes of appeals to parties. Article 10 of t!e Statute refers
 /ot! to @udgments /eing Dissued in >ritingE and to t!e pu/lication of t!em. And&as alread:
 noted&Article 11 of t!e Statute is t!e onl: one referring to @udgments /eing DrenderedE. T!ere
 is neit!er consistenc: nor definition of >!at is t!e rendering of @udgments&and !o> t!is differs
 from an: or all of t!eir Ddeli#er:E&Dpu/licationE&or /eing DissuedE.

=2. Alt!oug! for purposes of calculating t!e time in >!ic! an appeal to t!e UNAT must /e
 determined pursuant to Article ,6176c7 of t!e UNAT Statute&t!e receipt of a translated #ersion
 of a @udgment /: a part: !as /een !eld to /e t!e date of t!e @udgment.=

==. 3n Nouinou,² t!e Appeals Tri/unal confirmed t!at applications for re#ision of a
 @udgment can onl: /e made after a >ritten @udgment is issued. 3t follo>s t!at t!e time for
 doing so /egins to run from t!at point. Alt!oug! t!is does not settle t!e issue of >!en a
 @udgment is DrenderedE&it does assist in supporting our decision t!at it >as appropriate for
 (r. 4a55out to a>ait !is receipt of t!is Tri/unal;s 2020 Judgment in !is case /efore deciding
 >!et!er !e needed to appl: for a re#ision of it in reliance on material t!at !ad come to !is
 notice since t!e start of t!e Appeals Tri/unal;s Session at >!ic! t!e appeal >as considered.

= See Said v. Commissioner-General of the United Nations Relief and Works Agenc for !alestine
 Refugees in the Near "ast&. rder No. -2 620127.

² Nouinou v. Secretar -General of the United Nations&. rder No. =22 6201-7.

10. We reiterate each of the grounds for revision and the respondent's answers before deciding those grounds. Addressing first the requirement for the existence of a decisive fact (r. 4a55out in #0+es >! at !e descri/es as a document of 1, . cto/er 201B listing , 1 staff

THE UNITED NATIONS APPEALS T

/: determining t! at& e#en if (r. 4a55out ! ad c! allenged ! is non-e<tension or non-rene>al& t! e UN OA *T ! ad not erred in its conclusions.

29. Considered against t! at /ac+ground conte<t& >e are satisfied t! at neit! er of t! e first and t! ird ne> facts ad#anced /: (r 4a55out 6fact num/er t>o !a#ing& /: (r 4a55out;s

. , #

2B. The application for revision of Judgment No. 2020-UNAT-1055 is dismissed.

. original and Authenticated Version: English

* dated this 2nd day of October 2021.

#Signed\$

Judge Colgan, residing
Auckland, New Zealand

#Signed\$

Judge Jaffel
Jura de la Suisse

#Signed\$

Judge Jia, of
Atlanta, Georgia

Entered in the register on this 2nd day of October 2021 in New York, United States.

#Signed\$

Official in Registrar