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Before

CaseN

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Couns

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1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for revision of Judgment No. 2010-UNAT-039, issued by the Appeals Tribunal on 16 August 2010, in the case of Maghari v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. Mr. Abdel Rahman Sulieman Maghari filed his application on 21 July 2011 and the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (Commissioner-General and UNRWA, respectively) filed his comments on 24 May 2013.<sup>1</sup>

2. On 8 July 2013, Mr. Maghari filed a motion seeking to introduce additional evidence with respect to the timeliness of his application for revision as well as additional pleadings concerning the merits of his case. The Commissioner-General responded on 7 August 2013. By Order No. 157 (2013), the Appeals Tribunal granted Mr. Maghari's motion to the extent it concerned the admission of evidence in respect of the timeliness of his application.

#### Facts and Procedure

3. By letter dated 19 April 2005, Mr. Maghari, a Teacher employed by UNRWA, requested under Area Staff Rule 109.2, "resignation according to the rules of early voluntary retirement, effective from 20/5/2005". By letter dated 26 April 2005, Mr. Maghari was informed that his request for early voluntary retirement had been accepted effective close of business on 19 May 2005.

4. By letter dated 9 May 2005, Mr. Maghari sought to withdraw his request for early voluntary retirement. His request was denied.

5. On 31 July 2005, Mr. Maghari filed an appeal before the former Area Joint Appeals Board (AJAB). In its report, the AJAB noted that early voluntary retirement is a unilateral decision and that Mr. Maghari did not contest an administrative decision alleging the non-observance of his terms of appointment or a disciplinary action. Accordingly, the AJAB concluded that the appeal was not admissible, *ratione materiae*, and recommended that the Commissioner-General dismiss the appeal. The decision of the Commissioner-General to that effect was communicated to Mr. Maghari by letter dated 18 May 2008.

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<sup>1</sup> NB: The lapse of time between application and comments is due to delays by the Applicant in completing his filings, and the translation of Arabic documents into English.

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which Mr. Maghari disagrees; and allegations of procedural irregularities which are incorrect and unsupported by evidence.

Considerations

12. The legal framework governing applications for revision are Article 11(1) of the Statute of the Appeals Tribunal (Statute) and Article 24 of its Rules of Procedure (Rules).

13. Article 11(1) of the Statute provides that:

Subject to article 2 of the present statute, either party may apply to the Appeals Tribunal for a revision of a judgement on the basis of the discovery of a decisive fact which was, at the time the judgement was rendered, unknown to the Appeals Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence. The application must be made within 30 calendar days of the discovery of the fact and within one year of the date of the judgement.

14. Article 24 of the Rules stipulates:

Either party may apply to the Appeals Tribunal



Original and Authoritative Version: English

Dated this 17<sup>th</sup> day of October 2013 in New York, United States.

(Signed)