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UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

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Judgment No. 2017-UNAT-775

Onifade  
(Applicant)

v.

Secretary-General of the United Nations

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Counsel for Mr. Onifade: Self-represented  
Counsel for Secretary-General: Ernesto Bondikov



THE UNITED NATIONS APPEALS TRIBUNAL

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... The Applicant was interviewed twice by SIU investigators during the course of the investigation, on 22 July 2013 and on 24 July 2013. The SIU investigators also interviewed Ms. M and six other individuals.

... The Applicant's interviews were recorded in the form of statements which he signed as a true and accurate record of the interview. At the beginning of each of his statements it is recorded: "My name is [the Applicant], State coordinator of Warrap State. I am making this statement with no objection to the Chief of

... The investigation report was completed on 10 August 2013.

... By memorandum of 18 September 2013, the Special Representative of the

... On 6 May 2014, the Applicant responded with a written submission concerning the alleged misconduct, citing as mitigating factors for his behaviour the severe emotional, physical, and psychological problems from which he was suffering and the medications he was taking, the difficult living and working conditions he was

3. On 10 July 2014, Mr. Onifade filed an application with the Dispute Tribunal contesting the disciplinary measure of separation from service with compensation in lieu of notice and termination indemnity.

4. On 29 October 2015, the Dispute Tribunal issued Judgment No. UNDT/2015/101, which dismissed the application in its entirety. The Dispute Tribunal rejected Mr. Onifade's claims that he was not accorded due process and procedural fairness during the investigation. The Dispute Tribunal found that the investigation was not ultra vires as there was no evidence of improper delegation or referral of the allegation for investigation by either OIOS or the CDT, UNMISS. Mr. Onifade's allegations that the individuals who reported his misconduct, who investigated him, and who were interviewed during the investigation were improperly motivated, were not supported by evidence. The investigation was carried out in accordance with the correct procedures.<sup>3</sup>

5. Mr. Onifade appealed. In Judgment No. 2016-UNAT-668, the Appeals Tribunal dismissed Mr. Onifade's appeal and affirmed the UNDT Judgment in its entirety. The Appeals Tribunal confirmed the UNDT's conclusions that investigation was not ultra vires and that Mr. Onifade's due process rights were respected during the investigation and disciplinary stages. The Appeals Tribunal determined that the UNDT correctly found that the facts were established by clear and convincing evidence, that the finding of misconduct was warranted and that the sanction was proportionate to the offence.

6. Mr. Onifade now seeks revision of the Appeals Tribunal's Judgment.

#### Submissions

##### Mr. Onifade's Application

7. Mr. Onifade submits that on 1 January 2017 he had an "epiphany" that he was set up. Mr. Onifade submits that the Appeals Tribunal was not aware of the first MOP of 7 March 2013, which correctly identified Ms. M as United Nations Police officer from UNAMID and identified the purpose of travel as leave. He had forgotten about this evidence "due to depression and overwhelming circumstance of career truncation" and that this evidence was not before the UNDT or the Appeals Tribunal.

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<sup>3</sup> Impugned Judgment, para. 5.





forgotten that the first MOP was correct. However, this is contradicted by the record. During Mr. Onifade's second interview on 24 July 2013, Mr. Onifade advised investigators that the first MOP had been "refused because the traveler [Ms. M] was from UNAMID". The first MOP also contains Mr. Onifade's official stamps, as well as his name, title, and signature. Additionally, Mr. Onifade has failed to provide any explanation of when and how the first MOP came into his possession. These documents were available and known to Mr. Onifade.

14. The first MOP does not contain a decisive fact that would affect the outcome of the case. If anything, the first MOP supports the case against Mr. Onifade, as it states Ms. M's true affiliation with UNAMID. Mr. Onifade proceeded to change the affiliation to "Peace Alliance" on the next two sets of MOP and release forms for Ms. M's travel, thereby knowingly and deliberately providing false information.

15. The Secretary-General requests that the Appeals Tribunal reject Mr. Onifade's application for revision in its entirety as manifestly inadmissible *ratione materiae*.

#### Considerations

16. Mr. Onifade seeks revision of an Appeals Tribunal Judgment in accordance with the provisions of Article 11 of the Statute and Article 24 of the Rules. There is no evidence before us to support this application for revision.

17. Mr. Onifade has failed to show that the first MOP was unknown to him at the time the Judgment was rendered and he has presented no decisive fact which was, at the time the Judgment was rendered, unknown to him and the Appeals Tribunal within the meaning of Article 11(1) of the Statute.

18. Moreover, even if the first MOP were allowed as evidence, it would be of no assistance and would not support his case.

19. As such, this application does not meet the criteria established under Article 11(1) of the Statute and Article 24 of the Rules. We find it to be without merit.

Judgment

20. The application for revision of Judgment No. 2016-UNAT-668 is dismissed.

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