



# Administrative Tribunal

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## ADMINISTRATIVE TRIBUNAL

Judgement No. 1140

Case No. 1056: JENSEN

Against: The Secretary-General  
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of: Mr. Julio Barboza, President; Mr. Kevin Haugh, Vice-President; Ms. Brigitte Stern;

Whereas, on 3 January 2003, Hans P. C. Jensen, a former staff member of the United Nations, filed an Application in which he requested, in accordance with article 12 of the Statute of the Tribunal, the revision of Judgement No. 1030, rendered by the Tribunal on 21 November 2001;

Whereas in his Application the Applicant requested the Tribunal, inter alia:

“a) **to find** that there are facts of such a nature which ... are fundamental factors to change the conclusions arrived at by [the United Nations Administrative Tribunal] majority vote in its Judgement.

b) should the finding be in favour [of] the Applicant, ... **to order** the Respondent to pay the indemnities requested in the original appeal.

c) **to find** that the Respondent did not pay the Applicant the amount ordered ... in paragraph XV of Judgement No. 1030 ...”

Whereas at the request of the Respondent, the President of the Tribunal granted an extension of the time limit for filing a Respondent's answer until 30 April 2001 and once thereafter until 30 June 2003;

Whereas the Respondent filed his Answer on 30 May 2003

Whereas the Applicant filed Written Observations on 24 June 2003;

Whereas the facts in the case were set forth in Judgement No. 1030;

Whereas the Applicant's principal contentions are:

1. The United Nations Center for Human Settlements (UNCHS) in Bogotá never existed as a separate institution, but was part of UNCHS-Nairobi.
2. All contracts of the Applicant were extensions of the initial contract.
3. The Administration did not follow the procedures of Personnel Directive PD/3/81/Rev.1 of 4 April 1984.
4. The Respondent gave false reasons for the non-renewal of contract.

Whereas the Respondent's principal contention is:

The Applicant failed to introduce any fact of a decisive nature, which was unknown to the Tribunal and to the Applicant at the time Judgement No. 1030 was rendered, and, accordingly, his request for a revision of that Judgement is without merit.

The Tribunal, having deliberated from 21 October to 17 November 2003, now pronounces the following Judgement:

I. The Applicant applies for revision of Judgment No. 1030, rendered by the Tribunal on 21 November 2001.

II. It is well known that Article 12 of the Tribunal's Statute reads:

"The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgment on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgment. Clerical or arithmetical mistakes in judgments, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties."

The Applicant has not alleged any new fact as required by Article 12. He annexes some documents, which he wrongly describes as "new documents" but which, in fact, were already available to the Tribunal and considered by it. On the basis of those documents, which were well known to the Tribunal and to the Applicant himself, he seeks to rebut the arguments upon which the original

Judgement was based. It is, then, clear that the presentation the Tribunal is now considering is no more than an appeal in disguise.

III. The jurisprudence of the Tribunal in this respect is uniform and explicit. The Judgment in question is *res judicata* and the Statute does not authorize appeals of judgements.

IV. Accordingly, the Application is rejected in its entirety.

(Signatures)

**Julio Barboza**  
President

**Kevin Haugh**  
Vice-President

**Brigitte Stern**  
Member

New York, 17 November 2003

**Maritza Struyvenberg**  
Executive Secretary