



ADMINISTRATIVE TRIBUNAL

Judgement No. 1380

Case No. 1358 (a)

Against: The Secretary-General
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Spyridon Flogaitis, President; Ms. Jacqueline R. Scott, First Vice-President; Mr. Dayendra Sena Wijewardane, Second Vice-President;

Whereas, on 28 February 2006, the Respondent in case No. 1358 filed an Application in which he requested the interpretation of Judgement No. 1275 rendered by the Tribunal on 23 November 2005;

Whereas in his Application, the Respondent requests the Tribunal “to specify the amounts of compensation attributable to the different violations of the Applicant’s rights”.

Whereas the Applicant filed his Answer on 15 July 2006;

Whereas the Respondent filed Written Observations on 16 February 2007;

Whereas the facts in the case were set forth in Judgement No. 1275.

Whereas the Respondent’s principal contentions are:

1. The Tribunal did not break down the lump-sum of nine months’ net base salary awarded to the Applicant as compensation for violation of his rights, including the Joint Appeals Board’s (JAB’s) “undue delays in handling his case”, into amounts attributable to each of the specific violations.

2. Such clarification is necessary in order to ensure that the compensation payable to the Applicant is properly allocated between various offices within the United Nations, in accordance with applicable rules and procedures.

Whereas the Applicant's principal contention is:

The Respondent's Application is frivolous, irreceivable and an abuse of the judicial process.

The Tribunal, having deliberated from 21 April to 2 May 2008, now pronounces the following Judgement:

I. On 23 November 2005, the Tribunal rendered Judgement No. 1275. In that Judgement, the Tribunal agreed with the findings of the JAB that the decision of the United Nations Development Programme (UNDP) not to renew the Applicant's contract was vitiated by prejudice and extraneous motivation, constituting an abuse of discretion; that "despite the Respondent's assertions to the contrary, the non-renewal [of the Applicant's contract] was not the result of a staff reduction, but, indeed, was the result of political pressure on UNDP by [a national] Government"; that the "staff reduction did not occur until October, while the Applicant was notified in August that his contract would not be renewed"; and, that the "UNDP Administrator ... failed to address the matter appropriately ... [and] had the obligation to make a good faith effort to find the [Applicant] a suitable position". The Tribunal, however, believed that "the amount of compensation awarded [by the JAB, that is, three months' net base salary, was] inadequate, given the gravity of the improper interference and the consequent harm done to the Applicant" and awarded "additional compensation equivalent to nine months' net base salary at the rate in effect on the date of ... Judgement".

II. On 28 February 2006, at the request of UNDP, the Respondent filed a request for interpretation of judgement. He notes that the Tribunal ordered the payment of nine months' net base salary for a number of violations of the staff member's rights, without providing a "break-down [of] this lump-sum into the amounts attributable to each of the [specific] violations". He would like the Tribunal to specify which portion of the whole amount it awarded for the "JAB's undue delay in handling [the] case", as this portion would not be the responsibility of UNDP, but of the United Nations.

III. The judgements of the Tribunal are final and without appeal, subject to the provisions of article 12 of its Statute, which reads as follows:

"The Secretary-General or the Applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement 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 judgement. Clerical or arithmetical mistakes in judgements, 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."


In addition, although the Statute of the Administrative Tribunal does not contain an express provision relating to the interpretation of judgements, in Judgement No. 61, *Crawford et al.* (1955), the Tribunal found that the competence of national and international courts to interpret their own judgements is generally recognized. Thus, the Tribunal

will consider applications for interpretation of judgement where there is dispute as to the meaning or scope of the judgement.

IV. In the instant case, the Tribunal notes that there exists an accounting issue between UNDP and the United Nations as to which part of the amount to be paid as compensation is the responsibility of each organization. In the Tribunal's view, the present Application is not a genuine request for interpretation under its jurisdiction but, rather, has the characteristics of a disagreement between two international organizations as to how to apportion a common responsibility. It is not for the Tribunal to interfere in such a dispute. Furthermore, the Tribunal is of the opinion that its Judgement No. 1275 does not require interpretation, as it is quite clear and unambiguous.

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

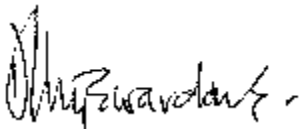
(Signatures)



Spyridon **Flogaitis**
President



Jacqueline R. **Scott**
First Vice-President



Dayendra Sena **Wijewardane**
Second Vice-President

New York, 2 May 2008



Maritza **Struyvenberg**
Executive Secretary