



UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D 'APPEL DES NATIONS UNIES

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Case No. 2010-143

Eid

(Respondent/Applicant)

v.

**THE UNITED N**

5. In March 2006, Eid initiated an appeal under the internal justice system then in place, requesting inter alia that he be paid the compensation package without delay and without having to renounce attempts to obtain the extension of his sick leave. The case went through the administrative review and the Joint Appeals Board, and Eid's appeal was declared time-barred. Eid continued his appeal to the former Administrative Tribunal, which did not have an opportunity to review the case before its abolition on 31 December 2009. The case was subsequently transferred to the Dispute Tribunal.

6. In Judgment No. UNDT/2010/106 dated 9 June 2010, Judge Cousin rejected the part of Eid's application contesting UNIFIL's refusal to grant him an extension of his contract on the ground of ill-health. But he considered the part of Eid's application to review the delay or refusal to pay him the compensation package receivable. Judge Cousin ordered the Secretary-General to pay the normal termination indemnity and other sums owed to him in connection with his separation from service in the amount of 29,991.23 US dollars and 9,552,660 Lebanese pounds, with eight per cent interest from 14 February 2003, when they fell due, until the payment was made. But Judge Cousin ruled that Eid should not receive the 50 per cent enhanced termination indemnity because he had refused to undertake not to contest his termination.

7. On 1 July 2010, this Court issued a synopsis of its Judgment rendered in *Warren*, which fixed the interest rate applicable to pre-judgment compensation at the US prime rate applicable at the time the entitlement fell due.<sup>2</sup> (The *Warren* Judgment was issued on 20 August 2010.)

8. On 11 August 2010, the Secretary-General submitted an application with the Dispute Tribunal for revision of the UNDT Judgment related to Eid's case, under Article 29 of the UNDT Rules of Procedure. The Secretary-General considered the decision of this Court to fix the interest rate applicable to pre-judgment compensation at the US prime rate to be a "decisive fact" which was "unknown to the Dispute Tribunal and to the party applying for revision". The Secretary-General maintained that the UNDT's award of eight per cent interest rate on the pre-judgment compensation was contrary to the *Warren* findings and should therefore be revised.

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<sup>2</sup> *Warren v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-059.

9. By Order No. 70 (GVA/2010) dated 18 August 2010, Judge Cousin rejected the Secretary-General's application for revision. Judge Cousin considered that the rendering by the Appeals Tribunal of a decision in *Warren* did not constitute a "fact" pertaining to Eid's case. Moreover, the new jurisprudence created by the Appeals Tribunal may not lead the UNDT to revise a judgment that had already been rendered.

10. On 4 October 2010, the Secretary-General filed an appeal from both Judgment No. UNDT/2010/106 and UNDT Order No. 70 (GVA/2010). On 15 November 2010, Eid filed an answer.

### Submissions

#### Secretary-General's Appeal

11. The present appeal from the UNDT Order is receivable as the Order was not interlocutory in nature and was issued after the Judgment was rendered. Furthermore, it was submitted on a timely basis. The Secretary-General cites the Appeals Tribunal's Judgment in *Mezoui* in support of his position.<sup>3</sup>

12. On the merits, the Secretary-General submits that the UNDT erred in setting the interest rate at (eiTJ -22.39aTw 01at th-1]TJ at (ei.10 TD -.S90 0 Tw [/8 at [/8 at2.6927 TD .3.06 -1)

**Eid's Answer**

14. The Secretary-General's application for revision of UNDT Judgment is not receivable, as an application for revision is only possible after this Court has rendered a final judgment on the UNDT judgment, or if the judgment becomes executable.

15.

**Judgment**

21. We affirm both Judgment No. UNDT /2010/106 and UNDT Order No. 70 (GVA/2010).

Original and Authoritative Version: English

Dated this 8<sup>th</sup> day of July 2011 in Geneva, Switzerland.

*(Signed)*

Judge Painter, Presiding

*(Signed)*

Judge Weinberg de Roca

*(Signed)*

Judge Courtial

Entered in the Register on this 29<sup>th</sup> day of August 2011 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar