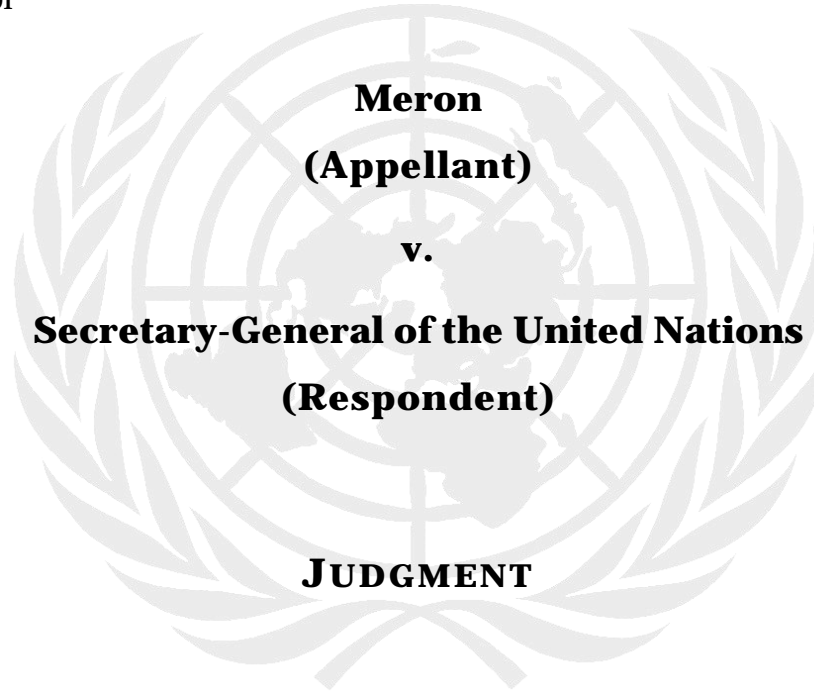




**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

---

Case No. 2011-201



---

Before:	Judge Inés Weinberg de Roca, Presiding Judge Kamaljit Singh Garewal Judge Luis María Simón
Judgment No.:	2012-UNAT-198
Date:	16 March 2012
Registrar:	Weicheng Lin

---

Counsel for Appellant: Self-represented

Counsel for Respondent: Amy Wood

**JUDGE INÉS WEINBERG DE ROCA, Presiding.**

**Synopsis**

1. The United Nations Appeals Tribunal (Appeals Tribunal) is seized of an appeal by Ms. Raya Meron against Judgment No. UNDT/2011/004 rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York on 7 January 2011 in the case of *Meron v. Secretary-General of the United Nations*.

2. The UNDT correctly stated that the former Administrative Tribunal had considered and rejected all of Ms. Meron's other pleas, and that for this reason the matter of interest was *res judicata*.

3. This Court has stressed that the authority of a final judgment cannot be readily set aside. There must be an end to litigation and the stability of the judicial process requires that final judgments by an appellate court not be set aside unless for the gravest of reasons.

4. The appeal is dismissed and the UNDT Judgment is affirmed.

**Facts and Procedure**

5. On 29 April 1991, Ms. Meron joined the Resettlement Section in the Office of the United Nations High Commissioner for Refugees (UNHCR) at the G-4 level. On 17 May 1992, while she was on assignment with the United Nations Transitional Authority in Cambodia (UNTAC), Ms. Meron sustained head and back injuries, as result of whiplash, while riding as a passenger in a United Nations vehicle which collided with a truck.

6. On 26 May 1994, the Advisory Board on Compensation Claims (ABCC) recommended that Ms. Meron's whiplash injuries be considered as attributable to the performance of official duties on behalf of the Organization, and that all reasonable medical expenses directly related to the injuries be reimbursed. The Secretary-General endorsed the ABCC's recommendations the following day.

7. Ms. Meron retired on 31 July 1997.

8. A Medical Board was convened shortly before Ms. Meron's retirement and recommended, on 21 November 1997, inter alia that Ms. Meron's outstanding medical and

dental expenses be reimbursed, but that the question of whether she was eligible for compensation under article 11.1(c) or 11.2(d) of Appendix D to the Staff Rules be deferred until after the Medical Board submitted its report on permanent loss of function. The Secretary-General subsequently agreed to those recommendations.

9. In January 1998, Ms. Meron filed an application with the former Administrative Tribunal seeking *inter alia* access to her medical file and the convening of a Medical Board.

10. Another Medical Board was convened in June 1998. It determined *inter alia* that Ms. Meron was permanently disabled and that the Organization would be responsible for all future treatments related to her whiplash injuries.

11. On 23 July 1999, the former Administrative Tribunal issued Judgment No. 918, which rejected Ms. Meron's application in its entirety, due to the fact that she had since been provided access to her medical file and that a Medical Board had been convened.

12. After the ABCC found that Ms. Meron did not qualify for disability compensation under article 11 of Appendix D to the Staff Rules and the Administration refused to reimburse certain medical bills submitted by Ms. Meron, Ms. Meron filed two separate applications with the former Administrative Tribunal, in February 2000 and March 2002 respectively, seeking declaratory judgment, compensatory payments as well as "interest on all those payments".

13. In Judgment No. 1197 dated 23 July 2004 disposing of both applications filed by Ms. Meron, the former Administrative Tribunal

1. Orders that the Applicant be awarded an annual pension equal to 50 per cent of two thirds of her final pensionable remuneration;
2. Orders that a Medical Board be convened within three months from the date on which the Administration is notified of this Judgement to review the question of the outstanding invoices;
3. Awards a sum of \$10,000 as compensation for the anxiety caused by the unreasonable delays in the handling of the Applicant's case;
4. Rejects all other pleas.

14. The case went back and forth between Ms. Meron and the Administration as a result of the disagreement over how to implement Judgment No. 1197. Ms. Meron launched appeals seeking full implementation of the judgment, whereas the Administration refused to

reimburse the outstanding bills submitted by Ms. Meron because she had failed to submit the requested evidence for such bills.

15. On 13 June 2008, the Joint Appeals Board (JAB) in Geneva issued its report, in which it recommended that the Secretary-General reject Ms. Meron's plea for payment of USD 25,863.40 representing "underpayment" of her disability benefit under Appendix D to the Staff Rules ("Appendix D disability benefit"). However, the JAB recommended that the Secretary-General pay Ms. Meron a lump sum of USD 3,000 "in view of all the circumstances of the case, especially the delay in convening the Medical Board". The Secretary-General accepted the recommendation of the JAB.

16. On 20 December 2008, Ms. Meron appealed the above decision taken by the Secretary-General to the UNDT, seeking payment of her award as contained in the former Administrative Tribunal Judgment No. 1197 in US dollars rather than Swiss francs (CHF); payment of USD 25,863.40 based on her calculation of her Appendix D disability benefit in CHF and the Swiss cost of living increases, plus interest at 10 percent on each monthly payment due from 1 August 1997 to the date of payment; unspecified compensation for actual, consequential and moral damages; and compensation for legal fees and expenses.

17. In Judgment No. UNDT/2011/004 dated 7 January 2011, the UNDT determined that the Respondent had correctly calculated the amount of her Appendix D disability benefit in US dollars. Consequently there was no issue of underpayment amounting to USD 25,863.40 as claimed by Ms. Meron. On Ms. Meron's claim for 10 percent interest on her Appendix D disability benefits from their due dates to the date of their payment, the UNDT noted that the former Administrative Tribunal "reject[ed] all other pleas" in Order No. 4 of Judgment No. 1179.<sup>1</sup> In the view of the UNDT, Order No. 4 covered the issue of interest among others, and the matter was therefore *res judicata*. With respect to the claims for damages, the UNDT recalled that the former Administrative Tribunal had already ordered USD 10,000 as compensation for the anxiety caused by the "unreasonable delays in the handling of [Ms. Meron's] case", and that the JAB had also recommended USD 3,000 in compensation for the additional delay in the resolution of Ms. Meron's case. The UNDT noted that the issues remained unresolved in 2011. In the view of UNDT, the delays in implementing

---

<sup>1</sup> See paragraph 13 above.

Judgment No. 1197 were “excessive and inordinate”, for which Ms. Meron should be paid USD 25,000. The UNDT also ordered that a Medical Board be convened within three months from the date of its Judgment to review the invoices that had not been considered and that a monthly interest at the US prime rate be applied to all outstanding invoices.

18. On 21 February 2011, Ms. Meron filed a request for a three-month extension of the time limit to file her appeal on medical grounds. Her request was granted. On 19 May 2011, Ms. Meron submitted an appeal. The Secretary-General submitted an answer on 5 July 2011.

### **Submissions**

#### **Ms. Meron’s Appeal**

19. Ms. Meron submits that her repeated pleas for interest were ignored. She states that the fact that the former Administrative Tribunal “rejected all other pleas” is not a justification for continuing to reject and refuse to consider the interest that she has the right to receive on the delayed payment of her Appendix D disability benefits. It should be noted that the former Administrative Tribunal rejected her plea for interest without any reason. Ms. Meron requests that this Court once again consider her request for interest on her delayed Appendix D disability benefit payments.

20. Ms. Meron maintains that she did not indicate whether she would file an appeal when she requested a three-month extension of the time limit. But the Administration refused to establish a Medical Board after it had learnt of her extension request.

21. Ms. Meron maintains that she understands why her pensionable remuneration is paid in US dollars, but she does not understand why her Appendix D disability benefit is calculated and paid in US dollars as well. While the retirement pension is statutorily required to be calculated in US dollars, there is no statutory provision but only a “general practice” to calculate Appendix D disability benefit in US dollars. Ms. Meron considers that she should have the option to receive her Appendix D disability benefit in the local track (CHF) as is done with her retirement pension. Ms. Meron states that she has changed her retirement pension from the dollar track to the local track in 2008.

**Secretary-General's Answer**

22. There is no provision in the Statute of the Appeals Tribunal granting this Tribunal the authority to conduct a judicial review of the judgments rendered by the former Administrative Tribunal. The jurisprudence of the Appeals Tribunal and the Dispute Tribunal supports the conclusion that neither the Appeals Tribunal nor the Dispute Tribunal has the power to revisit or alter a final decision of the former Administrative Tribunal. Judgment No. 1179 was intended to be a final judicial determination of the matter. Ms. Meron has exhausted all her avenues of appeal in respect to Judgment No. 1179. The UNDT properly determined that it did not have jurisdiction to consider Ms. Meron's request for an award of interest as this issue was already determined by the former Administrative Tribunal as *res judicata*.

23. The UNDT properly determined that the Administration had correctly calculated Ms. Meron's Appendix D disability benefit in US dollars in accordance with the applicable legal framework. The Secretary-General stresses that the Appendix D disability benefit that Ms. Meron seeks to have recalculated is not a disability benefit paid under Article 33 of the Pension Fund Regulations. It is therefore not subject to the option of a local track. On the issue of the award of Appendix D disability benefit in US dollars, Ms. Meron merely reiterates the claims that she had made before the UNDT. Ms. Meron fails to establish any error in fact or law in the UNDT's decision to uphold the calculation of her Appendix D disability benefit in US dollars.

24. The Secretary-General submits that Ms. Meron's statement that UNHCR had blocked the convening of a Medical Board is contrary to the facts as well as procedural requirements. Indeed after she appealed the UNDT Judgment, the Respondent informed Ms. Meron that given that her appeal did not raise an issue with respect to the Medical Board, the convening of a Medical Board could be resumed. Ms. Meron responded that "the scope of [her] appeal does very much concern the medical board" and that she "can wait for the medical board". Accordingly the Secretary-General did not take any further step to convene the Medical Board.

**Considerations**

25. The UNDT correctly stated that the former Administrative Tribunal had considered and rejected all of Ms. Meron's other pleas, and that for this reason the matter of interest was *res judicata*.

26. This Court has stressed that the authority of a final judgment cannot be readily set aside. There must be an end to litigation and the stability of the judicial process requires that final judgments by an appellate court not be set aside unless for the gravest of reasons.<sup>2</sup>

27. Notwithstanding, the UNDT, while not adjudicating on matters already decided in prior appeals, noted a pattern on the part of the Secretary-General of failing to resolve the issues within a reasonable timeframe or effectively.

28. Article 32(2) of the Rules of Procedure of the UNDT specifically foresees:

Once a judgement is executable..., either party may apply to the Dispute Tribunal for an order for execution of the judgement if the judgement requires execution within a certain period of time and such execution has not been carried out.

29. In light of the above the UNDT ordered that the Secretary-General make a payment of USD 25,000 as compensation for the excessive and inordinate delays and the emotional harm and that he convene a Medical Board to consider outstanding invoices.

30. The Secretary-General has not appealed and has therefore accepted the UNDT's decision and financial award. The UNDT's decision is final.

**Judgment**

31. The appeal is dismissed in its entirety.

---

<sup>2</sup> See *Shanks v. United Nations Joint Staff Pension Board*, Judgment No. 2010-UNAT-026bis.

Original and Authoritative Version: English

Done this 16<sup>th</sup> day of March 2012 in New York, United States.

*(Signed)*

Judge Weinberg de Roca, Presiding

*(Signed)*

Judge Garewal

*(Signed)*

Judge Simón

Entered in the Register on this 7<sup>th</sup> day of May 2012 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar