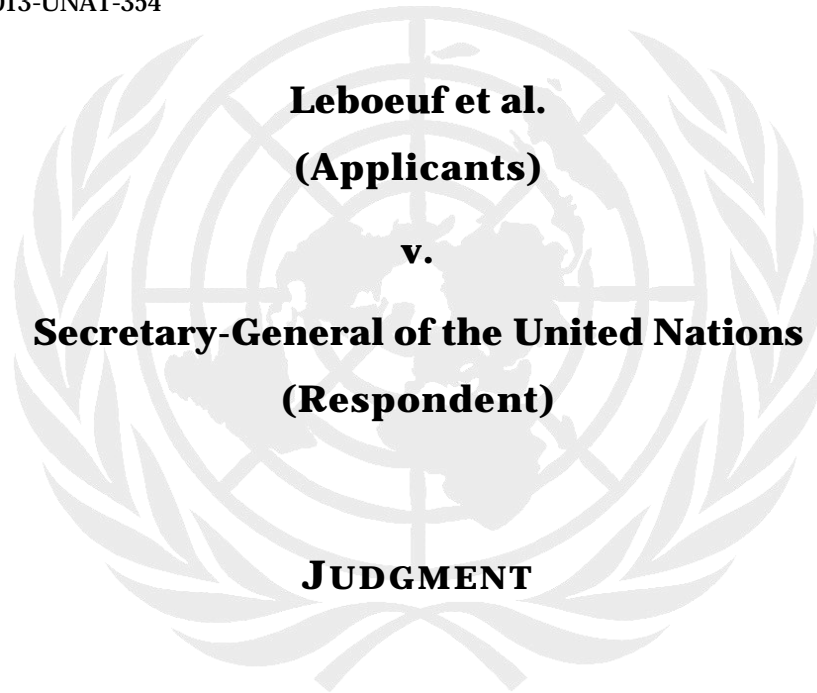




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2013-UNAT-354



**Leboeuf et al.
(Applicants)**

v.

**Secretary-General of the United Nations
(Respondent)**

JUDGMENT

Before: Judge Richard Lussick, Presiding
Judge Luis María Simón
Judge Mary Faherty

Case No.: 2012-410

Date: 28 June 2013

Registrar: Weicheng Lin

Counsel for Applicants: François Lorient

Counsel for Respondent: Stéphanie Cartier

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for interpretation of Judgment No. 2011-UNAT-185, rendered by the Appeals Tribunal on 21 October 2011 in the case of *Leboeuf et al. v. Secretary-General of the United Nations*. The applicants, Ms. Christiane Leboeuf and 34 other staff members,¹ filed their application on 14 November 2012 and the Secretary-General filed his comments on 19 December 2012.

Facts and Procedure

2. The applicants, 35 general service level staff members in the Text Processing Unit of the Department for General Assembly and Conference Management (DGACM), contested their Department's interpretation and application of the Organisation's rules on compensation for overtime work, Appendix B to the former Staff Rules. The applicants requested a review in 2009, and in turn the Policy Support Unit of the Office of Human Resources Management (OHRM) agreed with DGACM's interpretation and application.

3. The applicants filed an application with the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in New York which dismissed the application (Judgment No. UNDT/2010/206). By Judgment No. 2011-UNAT-185, the Appeals Tribunal vacated the UNDT judgment and remanded the case for "further proceedings".

4. The UNDT held a case management hearing on 6 September 2012 concerning the remanded case. On 14 September 2012, the UNDT issued Order No. 182 (NY/2012) (Case Management Order), in which it made certain orders for the further conduct of the case.

5. The applicants now seek an interpretation of Judgment No. 2011-UNAT-185. The Secretary-General opposes the application and requests that this Tribunal reject the application in its entirety.

¹ Of the 60 staff members who initially filed a consolidated application before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York, only 35 staff members appealed the UNDT Judgment.

Considerations

6. Before us now is an application for interpretation of the previously mentioned Appeals Tribunal Judgment. The applicants seek the following rulings by way of interpretation:

- a. That the remanded UNDT case resumes with its initial 60 applicants;
- b. That, absent a timely appeal or cross-appeal at the Appeals Tribunal by the Secretary-General on receivability and jurisdiction, the Secretary-General is time-barred and not allowed to reopen such issues, following the remand of the case to the UNDT; and
- c. That statements made in Judgment No. 2011-UNAT-185 are not merely *obiter dictum*, and are binding on the parties in the remanded UNDT case.

7. These issues have already been addressed by the UNDT in its Case Management Order, in which it made orders for the production of further evidence in order to decide the issues in the case. The UNDT gave directions with respect to “a” above, that only 35 of the original 60 applicants are properly before the UNDT,² and with respect to “b” and “c”, that the parties will have the opportunity to make submissions.³

8. Article 19 of the Rules of Procedure of the Dispute Tribunal gives the UNDT a broad discretion to issue any order or give any direction appropriate for the fair and expeditious disposal of the case and to do justice to the parties. The Appeals Tribunal has previously held that the UNDT is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and to do justice to the parties and this Tribunal will not lightly interfere with the broad discretion of the UNDT in the management of cases.⁴

9. The Case Management Order presently under discussion was within the jurisdiction of the UNDT, so that there can be no justification for any interference by this Tribunal. The application for interpretation now before us, if granted, would lead to such an interference and therefore cannot be admitted.

² *Leboeuf et al. v. Secretary-General of the United Nations*, Order No. 182 (NY/2012), paras. 4 and 18.

³ *Ibid.*, paras. 11, 18, 19.

⁴ *Bertucci v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-062, para. 23.

Judgment

10. The Applicants' application for interpretation is rejected.

Original and Authoritative Version: English

Dated this 28th day June 2013 in New York, United States.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Simón

(Signed)

Judge Faherty

Entered in the Register on this 26th day of August 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar