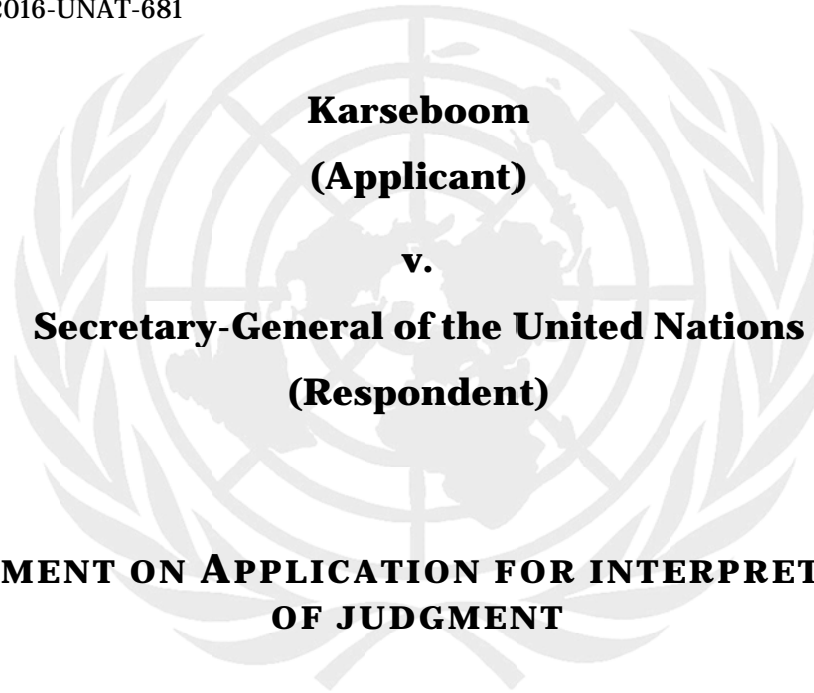




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2016-UNAT-681



**Karseboom
(Applicant)**

v.

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

**JUDGMENT ON APPLICATION FOR INTERPRETATION
OF JUDGMENT**

Before:	Judge Richard Lussick, Presiding Judge Sophia Adinyira Judge Inés Weinberg de Roca
Case No.:	2015-890
Date:	30 June 2016
Registrar:	Weicheng Lin

Counsel for Mr. James:	Robbie Leighton, OSLA
Counsel for Secretary-General:	Zarqaa Chohan

JUDGE RICHARD LUSSICK, PRESIDING.

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for Interpretation of Judgment No. 2015-UNAT-601 rendered by the Appeals Tribunal in New York on 30 October 2015. Mr. Alfred Karseboom filed this application on 28 January 2016 and the Secretary-General submitted his observations on 29 February 2016.

Facts and Procedure

2. On 27 April 2012, Mr. Karseboom filed an application with the United Nations Dispute Tribunal (UNDT) contesting the Secretary-General's decision to deny his request for compensation on the grounds that he had not sustained any degree of permanent loss of function due to his leg and knee injuries, and that his spinal injury would not be recognized as service-incurred.

3. The UNDT delivered its Judgment on 30 October 2014.¹ It held that the ABCC had not followed the procedures for reconsideration provided for in Article 17 of Appendix D. Specifically, the Administration failed to convene a medical board after receiving the requests for reconsideration. Instead, it conducted a review of the original determination that the spinal injuries were not service-incurred. The UNDT held that the decision of the Secretary-General on the request for reconsideration was made on the basis of an invalid process and was therefore unlawful and void. The UNDT further found that the ABCC made its recommendation based on uncertain facts and inferences which were derived improperly, from the absence of evidence. Additionally, the UNDT found that there were significant delays in the processing of Mr. Karseboom's claim for his back injury. It consequently awarded him USD 150,104 for material damages and three months' net base salary as at 20 April 2011 for moral damages.

4. The Secretary-General filed an appeal to the Appeals Tribunal. The Appeals Tribunal delivered its Judgment No. 2015-UNAT-601 on 30 October 2015. It found that the UNDT, by making medical findings which it was not competent to make and thereby awarding Mr. Karseboom material and moral damages, exceeded its competence and committed errors of law and procedure. The Appeals Tribunal therefore set aside the UNDT Judgment and remanded the case to the ABCC to convene a medical board.

¹*Karseboom v. Secretary-General of the United Nations*, Judgment No. UNDT/2014/130.

Submissions

Mr. Karseboom's Application for Interpretation of Judgment

5. Mr. Karseboom seeks clarification of two issues. First, whether the UNDT's award of moral damages to compensate Mr. Karseboom for the way in which the ABCC had processed his claim was upheld by the Appeals Tribunal. Second, whether the order that the ABCC convene a medical board is mandatory or may take place at his request. Mr. Karseboom seeks further clarification as to whether any financial provision might be made in the event he becomes liable for 50 per cent of the costs associated with the medical board.

The Secretary-General's Observations

6. The Secretary-General requests that the Appeals Tribunal dismiss the application for interpretation of judgment for failing to meet the requirements set out in Article 11 of its Statute and Articles 24 and 25 of its Rules of Procedure.

7. The Secretary-General asserts that the Appeals Tribunal's Judgment is clear in its meaning and requires no interpretation.

8. Even if Mr. Karseboom's application was considered to be a request for revision, it would fail to meet the requirements of Article 11 of the Appeals Tribunal Statute (Statute).

Considerations

9. Article 11 of the Statute provides, in part:

3. Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of the judgement.

10. Mr. Karseboom has filed an application for interpretation of judgment seeking interpretation of our Judgment delivered on 30 October 2015, in respect of: (i) whether moral damages awarded by the UNDT are still payable; and (ii) whether the Appeals Tribunal requires a medical board to be convened.

11. The Judgment delivered by the Appeals Tribunal stated:

The appeal is allowed. The Judgment of the UNDT is set aside and the case is remanded to the ABCC to convene a medical board.

12. The Judgment is quite clear in its meaning. It is in plain, unambiguous language, which leaves no reasonable doubt as to what is meant by it. It requires no interpretation.

13. This Tribunal held in *Abbasi* that:²

[I]nterpretation is only needed to clarify the meaning of a judgment when it leaves reasonable doubts about the will of the Tribunal or the arguments leading to a decision. But if the judgment is comprehensible, whatever the opinion of the parties may have about it or its reasoning, an application for interpretation is not admissible, as it happens in the present case.

14. Mr. Karseboom fails to identify any sentences or words in the Judgment that are unclear or ambiguous.

15. For the foregoing reasons, Mr. Karseboom's application must be rejected.

Judgment

16. The application for interpretation of Judgment No. 2015-UNAT-601 is dismissed.

² *Abbasi v. Secretary-General of the United Nations*, Judgment No.2013-UNAT-315, para. 18.

Original and Authoritative Version: English

Dated this 30th day of June 2016 in New York, United States.

(Signed)

Judge Lussick, Presiding

(Signed)

Judge Adinyira

(Signed)

Judge Weinberg de Roca

Entered in the Register on this 24th day of August 2016 in New York, United States.

(Signed)

Weicheng Lin, Registrar