



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2010/009

Order No.: 70 (GVA/2010)

Date: 18 August 2010

Original: English

Before: Judge Jean-François Cousin

Registry: Geneva

Registrar: Víctor Rodríguez

EID

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

Counsel for applicant:

Self-represented

Counsel for respondent:

Jerôme Blanchard, ALS/OHRM, UN Secretariat

Facts

1. By Judgment UNDT/2010/106 issued on 9 June 2010, the Dispute Tribunal decided upon Case No. UNDT/GVA/2010/009 and ordered the respondent to pay to the applicant the amount of USD29,991.23, plus LBP9,552,660, with an interest of eight per cent per annum as from 14 February 2003 until payment has been effected.

2. In July 2010, the United Nations Appeals Tribunal issued a synopsis of the judgments rendered during its last session, held in June-July 2010, which included Judgment 2010-UNAT-059, *Warren*. According to the synopsis of this case, the Appeals Tribunal fixed the interest rate applicable to pre-judgment compensation at the US prime rate applicable at the time the entitlement was due.

3. On 11 August 2010, the respondent in the instant case submitted a request for revision of Judgment UNDT/2010/106, *Eid*, pursuant to article 29 of the Tribunal's rules of procedure. The respondent considers that the decision of the Appeals Tribunal fixing the interest rate applicable to pre-judgment compensation at the US prime rate at the time the entitlement was due is a new fact that was unknown at the time the above-mentioned Judgment was issued by the Dispute Tribunal. On this ground, the respondent argues that the decision that the applicant be paid the sums ordered with interest at the rate of eight per cent per annum from 14 February 2003 until the date of payment is contrary to the findings of the Appeals Tribunal in Judgment 2010-UNAT-059. The respondent notes, in this connection, that the US prime rate as at 14 February 2003 was 4.25 per cent per annum.

Considerations

4. Article 12.1 of the Tribunal's statute provides:

Either party may apply to the Dispute Tribunal for a revision of an executable judgment on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Dispute Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence...

5. By the clear wording of this provision, the possibility of having a judgment reviewed is limited to cases where a “decisive fact”, unknown when the judgment was rendered, comes to the light.

6. Setting aside the circumstance that the judgment relied on by the respondent has not yet been issued and that his request for revision is founded on a mere synopsis, as a matter of principle, the rendering by the Appeals Tribunal of a decision on an appeal unrelated to the instant case does not constitute a fact pertaining to the case in question.

7. Moreover, the fact for an appellate court to create new jurisprudence may not, under any circumstances, lead the first instance court to revise a judgment that has already been notified to the parties.

Conclusion

8. In view of the foregoing, the request for revision is rejected.

(Signed)

Judge Jean-François Cousin

Dated this 18th day of August 2010

Entered in the Register on this 18th day of August 2010

(Signed)

Víctor Rodríguez, Registrar, UNDT, Geneva