



JUDGE INÉS WEINBERG DE ROCA, Presiding.

Synopsis

1. This case concerns the question of whether or not the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) may order pre-judgment and post-judgment interest on compensation and, if so, which interest rate applies. The Secretary-General must pay, within 60 days from the date this Judgment is issued to the parties, interest on the award of compensation at the US Prime Rate applicable on 25 March 2008 (5.25 per cent) calculated from 25 March 2008 to the date of payment of the compensation. If payment of the compensation is not made within 60 days, an additional 5 per cent shall be added to the US Prime Rate of 5.25 per cent from the date of expiry of the 60-day period to the date of payment.

Facts and Procedure

2. In Judgment No. UNDT/2010/015 dated 27 January 2010, the UNDT concluded that the amount paid to Richard Warren (Warren) as his lump sum for home leave travel was incorrectly calculated. The UNDT ordered that the Secretary-General pay Warren the difference between the amount of the lump sum entitlement as determined by the UNDT and the amount already paid pursuant to the Organization's calculation. The UNDT also ordered that the Secretary-General pay Warren interest on the difference at the rate of 8 per cent per year, from 25 March 2008 (due date) to the date of payment.

Submissions

Secretary-General's Appeal

3. The Secretary-General submits that the UNDT erred on a question of law in implicitly finding that it has power to award interest in the normal course of ordering compensation. The General Assembly did not intend to grant the UNDT the power to award interest. Article 10 of the statute of the Dispute Tribunal (UNDT statute) explicitly provides that the UNDT may award compensation, but is silent on the power of the UNDT to award interest. Furthermore, the legislative history of the UNDT statute shows that an explicit grant of power to award interest was considered by the General Assembly,

but it was not included in the final UNDT statute. Also, paragraph 28 of

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Judgment

18. With Judge Boyko dissenting, the Appeals Tribunal holds that the UNDT did not err in finding that it had the power to order the payment of interest on compensation awarded to Warren. The Appeals Tribunal, however, holds that the UNDT erred in its determination of the applicable interest rate. The Appeals Tribunal therefore vacates the UNDT's order on the payment of interest. It orders that the Secretary-General pay, within 60 days from the date this Judgment is issued to the parties, interest on the award of compensation at the US Prime Rate applicable on 25 March 2008 (5.25 per cent) calculated from 25 March 2008 to the date of payment of the compensation. If payment of the compensation is not made within 60

7. In my view the UNDT exceeded its jurisdiction and therefore erred in imposing interest. I would strike this portion of the judgment.

Dated this 1st day of July 2010 in New York, United States.

Original: English

(Signed)

Judge Boyko

Entered in the Register on this 20th day of August 2010 in New York, United States.

(Signed)

Weicheng Lin, Registrar
United Nations Appeals Tribunal