Before: Judge Alessandra Greceanu

Registry: New York

Registrar: Hafida Lahiouel

KISIA

Introduction

1. The Applicant, a former Security Officer with the Security and Safety Services ("SSS") in the Department of Safety and Security ("DSS") filed an application requesting the Tribunal to (a) provide an interpretation of paras. 51, 53, 55(a) and 55(b) of the Judgment *Kisia* UNDT/2016/040 in Case No. UNDT/NY/2014/061 (Kisia),

of

c. Under art. 12.4 of the Dispute Tribunal's Statute, an order for execution can be issued only where a judgment requires time for execution. *Kisia* UNDT/2016/040 did not require execution within a period of time and, in any event, it has been executed because the Applicant's claim will be examined by the UNCB at its next meeting in September 2016, which is the first UNCB meeting after the issuance of *Kisia* UNDT/2016/040.

Consideration

The relevant parts of Kisia *UNDT/2016/040*

8. According to para. 1 of *Kisia* UNDT/2016/040, which is not challenged by the Applicant in the present case, the administrative decision contested by the Applicant in Case No. UNDT/NY/2014/061 was that of:

> … the Assistant Secretary-General ["ASG"], Controller, Office of Programme Planning, Budget and Accounts, Department of Management … to approve the recommendation of [the UNCB] to deny his claim for compensation of USD2,277.53 for damage to his car following an accident that occurred on 27 July 2013 at security

> following the expiry of the time provided for appeal in the statute of the Appeals Tribunal.
>
> 2. Once a judgement is executable under article 11.3 of the statute of the Dispute Tribunal, 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.

17. As clearly results from *Kisia* UNDT/2016/040, the Tribunal did not establish a certain deadline for execution, so the judgment was to be executed according with the general rule, namely following the expiry of the time provided for appeal.

18. The Tribunal considers that the parties have the obligation to execute a judgment within the deadline established by the Tribunal or, if such a period is not indicated, as soon as possible within a reasonable period of time.

19. In accordance with art. 7.1(c) of Statute of the Appeal's Tribunal, an appeal is to be filed within 60 calendar days of the receipt of the judgment of the Dispute Tribunal. *Kisia* UNDT/2016/040 was published on 25 April 2016 and the parties were notified on the same day. As *Kisia* UNDT/2016/040 was not appealed by the parties, it became executable on 25 June 2016. In his reply, the Respondent submitted that the Applicant's claim was forwarded by the Controller to the UNCB and is to be examined at its next meeting in September 2016 after which the Controller will decide on the matter. The Respondent also indicated that this meeting is the first meeting of the UNCB after the issuance of the *Kisia* UNDT/2016/040 and the Applicant's claim is included on the agenda.

20. The Tribunal considers that, in most cases, the execution of a judgment requires only one executional act (*uno ictu*). However, the execution of *Kisia* UNDT/2016/040 consists in several steps to be followed due to the specificity of the procedure, which involves different levels prior to the final decision-making. As stated by the Respondent, the Controller forwarded the Applicant's claim to the UNCB and it was included on the agenda of the first UNCB meeting after the issuance of *Kisia* UNDT/2016/040, which will be held in September 2016. The final

step of the execution of *Kisia* UNDT/2016/040 following the UNCB recommendation will be the Controller's decision.

21. Pursuant to *Kisia* UNDT/2016/040, paras. 51–55, and in accordance with arts. 11.3 and 12.4 of the Dispute Tribunal's Statute, and art. 32 of the Rules of Procedure, the Tribunal notes that execution of the judgment is currently ongoing and there is no evidence produced by the Applicant showing that the Respondent could have executed the judgment earlier and/or that he acted in bad faith. The Tribunal observes that the UNCB scheduled its first meeting two months after the date when *Kisia* UNDT/2016/040 became executable, respectively as soon as possible and considers that the Applicant has not been deprived of his right to have the judgment executed within a reasonable time.

22. The Tribunal concludes that execution of the judgment is currently being carried out. The Applicant's request for execution of *Kisia* UNDT/2016/040 is therefore to be rejected (see, similarly, the Appels Tribunal in *Sutherland* 2014-UNAT-494, para. 38).

Compensation

23. The Tribunal notes that art. 10.5(b) of the Dispute Tribunal's Statute was amended by the General Assembly in December 2014 and that the text introduced, as a mandatory new requirement, that the Dispute Tribunal may only award compensation "for harm, supported by evidence". This requirement is both substantive, because the compensation can only be awarded for harm, and procedural, because the harm must be supported by evidence.

24. In *Black's Law Dictionary* (6th Ed. (1990), "harm" is defined as "[a] loss or