



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Tadonki
(Respondent/Applicant)

v.

Secretary-General of the United Nations
(Appellant/Respondent)

JUDGMENT
[No. 2010-UNAT-010]

Before: Judge Sophia Adinyira, Presiding
Judge Jean Courtial
Judge Mark P. Painter

Case No.: 2009-011

Date: 30 March 2010

Registrar: Weicheng Lin

Counsel for Respondent/Applicant: Katya Melliush

Counsel for Appellant/Respondent: Phyllis Hwang

JUDGE SOPHIA ADINYIRA, Presiding Judge.

Synopsis

1. This is an appeal filed by the Secretary-General of the United Nations under Article 30 of the Rules of Procedure of the United Nations Dispute Tribunal (UNDT) against the interpretation of a judgment. We hold that the interpretation of a judgment is not a judgment within the meaning of Article 2(1) of the Statute of the United Nations Appeals Tribunal (UNAT). The appeal is therefore not receivable.

Facts and Procedure

2. On 1 September 2009, the UNDT issued Judgment No. 2009/16 in the case of *Tadonki v. Secretary-General of the United Nations* (judgment Tadonki 1). In its judgment, the UNDT ordered (i) the suspension of the Organization's decision not to renew Tadonki's appointment at any time from the date of the order pending the final determination of the substantive case of Georges Tadonki (Tadonki); and (ii) the payment by the Organization to Tadonki of half his salary from the date of the order until the final determination of the case.

3. Both parties filed requests for interpretation of judgment Tadonki 1 under article 30 of the UNDT's Rules of Procedure. Subsequently, on 16 October 2009, the Organization filed an appeal against judgment Tadonki 1.

4. On 30 October 2009, the UNDT issued its interpretation of judgment Tadonki 1, "UNDT Judgment No. 2009/58", confirming its interim orders.

5. The Organization appeals against Judgment No. 2009/58, raising the same errors of law that were raised in its appeal against Judgments Tadonki 1.

Considerations

6. We take judicial notice of the fact that UNAT has given judgment on the appeal against the judgment Tadonki 1 whereby it set it aside. The present appeal is therefore moot. However, since this issue might arise again in the future, we wish to address the preliminary issue raised by Tadonki on the receivability of the present appeal.

7. The word "judgment" in article 2(1) of the Appeals Tribunal's Statute includes a decision or order obtained in an action or in proceedings properly so called. It does not

include the subsequent interpretation of such judgment; the literal meaning of the notion “interpret” is “to explain the meaning of something” and the word “interpretation” is “the particular way in which something is understood or explained”.

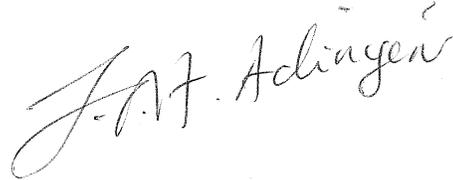
8. As such UNDT Judgment No. 2009/58 was merely an explanation of its judgment Tadonki 1. It is not a fresh decision or judgment within the meaning of article 2 (1) of UNAT’s Statute. We therefore uphold Tadonki’s objection that the appeal is not receivable.

9. We do not expect that the UNDT in the interpretation of its own orders would reverse or review such orders. The exercise of interpretation under article 30 of the UNDT Rules of Procedure is not an avenue for review or the basis for a fresh judgment. Any dissatisfaction with the interpretation by the UNDT may be raised in an appeal against the substantive judgment.

10. We finally note that the UNDT Registry classified the interpretation given on that day as “Judgment No. 2009/58”. This is clearly a misnomer.

Judgment

11. The appeal is dismissed.



Judge Adinyira, Presiding



Judge Courtial



Judge Painter

Dated this 30th day of March 2010 in Geneva, Switzerland.

Original: English

Entered in the Register on this 26th day of April 2010 in New York, United States.



Weicheng Lin, Registrar, UNAT