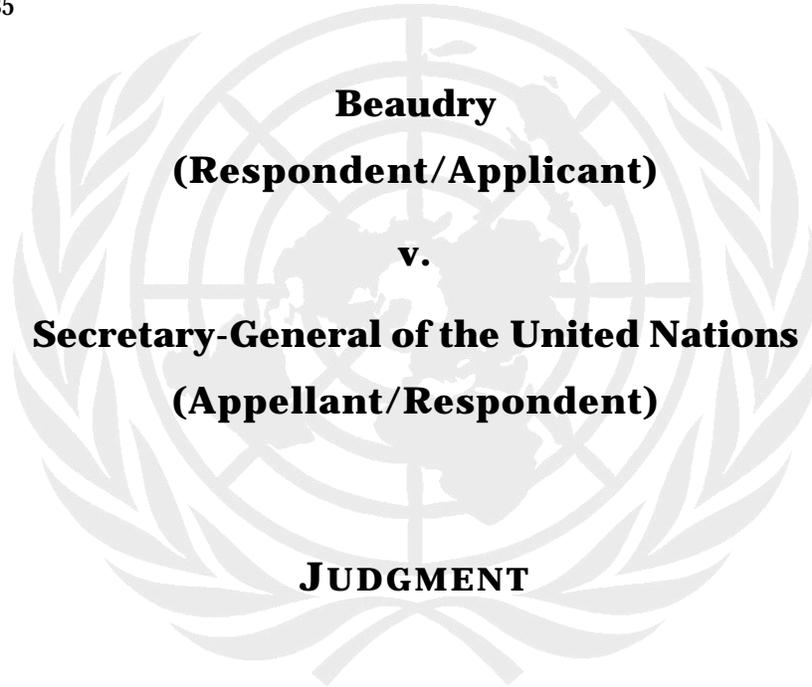




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Case No. 2010-135



**Beaudry
(Respondent/Applicant)**

v.

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

JUDGMENT

Before:	Judge Luis María Simón, Presiding Judge Mark P. Painter Judge Inés Weinberg de Roca
Judgment No.:	2011-UNAT-125
Date:	11 March 2011
Registrar:	Weicheng Lin

Counsel for Respondent/Applicant: No appearance

Counsel for Appellant/Respondent: Wambui Mwangi

JUDGE LUIS MARÍA SIMÓN, Presiding.

Synopsis

1. The issue raised in this appeal is the status of a judgment of the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) on compensation after this Tribunal has vacated the judgment of the UNDT on the merits of the case. Once the judgment on merits is vacated and no liability on the part of the Administration has been established, the judgment on compensation cannot stand if it would be contrary to the final decision on the merits of the case. An appeal against the judgment on compensation is not necessary if the legal basis for the award of compensation by the UNDT no longer exists. The UNDT's Judgment on compensation in this case is vacated in its entirety.

Facts and Procedure

2. Louise Beaudry (Beaudry), a staff member of the United Nations Stabilization Mission in Haiti, contested the decision not to renew her appointment of limited duration, which expired in October 2008, and the decision not to waive the time limit to submit a rebuttal of her e-PAS record for 2007-2008.

3. In March 2010, the UNDT issued Judgment No. UNDT/2010/039, which decided in Beaudry's favour on the question of liability (Judgment on merits). The Secretary-General filed an appeal against the Judgment on merits in April 2010.

4. On 18 August 2010, the UNDT issued Judgment No. UNDT/2010/146 on compensation (Judgment on compensation). The UNDT ordered the Secretary-General to pay Beaudry USD 112,082.

5. On 27 October 2010, this Tribunal pronounced its Judgment in respect of the appeal against the UNDT's Judgment on merits and vacated the Judgment in its entirety.¹

6. On 9 November 2010, the Secretary-General filed an appeal against the Judgment on compensation, after being granted an extension of time to appeal by this Tribunal in Order No. 10 (2010). Beaudry did not file an answer to the appeal.

¹ *Beaudry v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-085.

Submissions

7. The Secretary-General argues that the Judgment on compensation has no legal basis as this Tribunal has vacated the Judgment on merits.

Considerations

8. The main issue raised in this appeal is the status of a judgment of the UNDT on compensation after this Tribunal has vacated the judgment of the UNDT on the merits of the case.

9. Once the judgment on merits has been vacated and no liability on the part of the Administration has been established, the judgment on compensation cannot stand if this would be contrary to the final decision on the merits of the case. This will be the situation in most cases.

10. Therefore, an appeal against the judgment on compensation is not necessary if the legal basis for the award of compensation by the UNDT no longer exists. In the Judgment disposing of the appeal by the Secretary-General against the UNDT's Judgment on merits, this Tribunal held as follows:

25. ... The UNDT erred on a question of fact resulting in a manifestly unreasonable decision in finding that the non-renewal of Beaudry's appointment was in breach of her rights.

26. Accordingly, there are no grounds to support the ruling in the UNDT's Judgment that Beaudry is entitled to compensation for the non-renewal of her appointment of limited duration.²

11. A judgment of the Appeals Tribunal will not usually be necessary to determine the consequences of the vacation of the judgment of the UNDT on the merits with respect to the subsequent judgment of the UNDT on compensation. In this particular case, the time limit for the Secretary-General to file an appeal against the UNDT's Judgment on compensation was due to expire before the consideration by this Tribunal of the appeal against the UNDT's Judgment on merits. The time limit to appeal was extended by Order No. 10 (2010) until a

² *Beaudry v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-085.

date after the publication of the synopsis of this Tribunal's Judgment. The Secretary-General filed his appeal after it was announced in the synopsis that the UNDT's Judgment on merits was vacated but before the issuance of the Judgment to the parties. Hence, it is necessary for this Tribunal to render a judgment on the appeal against the UNDT's Judgment on compensation.

12. In *Kasyanov*,³ the Appeals Tribunal held that where there are separate judgments on merits and compensation, the judgment becomes final once the judgment on compensation is issued. In an appeal against the final judgment, the appellant may challenge both the judgment on merits and the judgment on compensation. The situation which has arisen in this appeal may not, therefore, arise again.

³ *Kasyanov v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-076, para. 24.

Judgment

13. For the foregoing reasons, we vacate the UNDT's Judgment on compensation in its entirety.

Original and Authoritative Version: English

Dated this 11th day of March 2011 in New York, United States.

(Signed)

Judge Simón, Presiding

(Signed)

Judge Painter

(Signed)

Judge Weinberg de Roca

Entered in the Register on this 19th day of April 2011 in New York, United States.

(Signed)

Weicheng Lin, Registrar