



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

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**Simmons**

**(Appellant/Respondent on Cross-Appeal/  
Respondent on Interpretation)**

**v.**

**Secretary-General of the United Nations  
(Respondent/Appellant on Cross-Appeal/  
Applicant on Interpretation)**

**ORDER NO. 148 (2013)**

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Before: Judge Mary Faherty, Presiding  
Judge Richard Lussick  
Judge Rosalyn Chapman

Cases Nos. : 2011-229 and 2012-382

Date: 28 June 2013

Registrar: Weicheng Lin

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Counsel for Ms. Simmons: Self-represented

Counsel for Secretary-General: Wambui Mwangi/  
Simon Thomas

**THE UNITED NATIONS APPEALS TRIBUNAL** (Appeals Tribunal),

**NOTING** Judgment No. 2012-UNAT-221 issued by the Appeals Tribunal (Appeals Tribunal) on 12 September 2012 in the case of *Simmons v. Secretary-General of the United Nations*;

**BEING SEIZED** of an application for interpretation of the Judgment filed by the Secretary-General on 4 October 2012;

**NOTING** the Secretary-General's contention that different sections of the Judgment, in particular paragraphs 4, 12, 63, and 64, give rise to different interpretations of the total compensation awarded to Ms. Sheryl Simmons by the Appeals Tribunal;

**NOTING** that Ms. Simmons filed her comments on the application for interpretation on 12 November 2012 requesting that the Appeals Tribunal reject the application;<sup>1</sup>

**NOTING** Article 11(3) of the Statute of the Appeals Tribunal (Statute) and Article 25 of the Rules of Procedure of the Appeals Tribunal (Rules) which provide that “[e]ither party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of a judgement”;

**CONSIDERING** that paragraph 63 of the Judgment contains a clerical error resulting in a contradiction between paragraph 12 and paragraph 63;

**CONSIDERING** that paragraph 64 of the Judgment contains clerical errors resulting in a contradiction between paragraphs 4 and 39 on the one hand and paragraph 64 on the other hand; and paragraphs 12 and 63 on the one hand and paragraph 64 on the other hand;

**FINDING** that this contradiction cannot be remedied by an “interpretation of the meaning or scope” of the Judgment and that the correct and expeditious avenue to remedy such inconsistency is a correction rather than an interpretation of judgment;

**NOTING** Article 11(2) of the Statute and Article 26 of the Rules which provide that “[c]lerical or arithmetical mistakes, or errors arising [therein] from any accidental slip or omission, may at any time be corrected by the Appeals Tribunal, either on its own initiative or on application by the parties on a prescribed form”;

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<sup>1</sup> A review of the case record reveals that Ms. Simmons received the Secretary-General's application only on 12 November 2012.

**NOTING** that the third sentence of paragraph 63 of the Judgment currently reads:

Accordingly, we substitute the award of USD 3,500 with compensation equivalent to three months' net base salary computed on the basis of the salary the Appellant was drawing on 31 March 2009, with interest on the award of compensation at the US Prime Rate applicable on 31 March 2009 calculated from 31 March 2009 to the date of payment of the compensation.

**NOTING** that paragraph 64 of the Judgment currently reads:

The appeal is granted in part. The cross-appeal is rejected. The UNDT's award of USD 3,500 is modified. The Respondent is ordered to pay Ms. Simmons compensation equivalent to three months' net base salary in effect on 31 March 2009.

**PURSUANT** to Article 11(2) of the Statute and Article 26 of the Rules,

**ORDERS** that the third sentence of paragraph 63 be corrected to read as follows:

Accordingly, we substitute the award of USD 3,000 with compensation equivalent to three months' net base salary computed on the basis of the salary the Appellant was drawing on 31 March 2009, with interest on the award of compensation at the US Prime Rate applicable on 31 March 2009 calculated from 31 March 2009 to the date of payment of the compensation.

**ORDERS** that paragraph 64 be corrected to read as follows:

The appeal is granted in part. The cross-appeal is rejected. The UNDT's total award of USD 3,500 is ~~modified~~ substituted with an award of compensation equivalent to three months' net base salary in effect on 31 March 2008 and compensation equivalent to three months' net base salary in effect on 31 March 2009. ~~The Respondent is ordered to pay Ms. Simmons compensation equivalent to three months' net base salary in effect on 31 March 2009.~~

**ORDERS** that the Secretary-General must execute the corrected Judgment within 60 days of its issuance to the parties, failing which five per cent interest shall be added to the US Prime Rate from the date of expiry of the 60-day period to the date of payment of the compensation;

**FINDS** that in light of the foregoing, the Secretary-General's application for interpretation is rendered moot.

Original and Authoritative Version: English

Dated this 28<sup>th</sup> day of June 2013 in New York, United States.

*(Signed)*

Judge Faherty, Presiding

*(Signed)*

Judge Lussick

*(Signed)*

Judge Chapman

Entered in the Register on this 29<sup>th</sup> day of July 2013 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar