

2023-UNAT-1315, Afm Badrul Alam

UNAT Held or UNDT Pronouncements

The UNAT held that the award for compensation in lieu of rescission included the additional cost incurred by the staff member in maintaining two households as a result of the contested decision.

The UNAT found that, given the application for interpretation, it was reasonable for the Administration to await the Appeals Tribunal's interpretation. However, the Secretary-General is ordered to fully execute the original Judgment and pay to the staff member USD 450 within 30 calendar days from the issuance of the current judgment.

The UNAT noted that, given the delay in execution and in the interest of fairness, interest should be awarded from the date of the original Judgment to the date of payment. The interest should be at the US Prime Rate applicable at the date of the original Judgment (3.25 per cent) and if the current judgment is not executed within 30 days, 5 per cent shall be added to the US Prime Rate from the date of expiry of the 30-day period to the date of payment of the compensation.

The UNAT granted the Secretary-General's application for interpretation and partially granted the staff member's application for execution of Judgment No. 2022-UNAT-1214.

Decision Contested or Judgment/Order Appealed

In Judgment No. 2022-UNAT-1214, the Appeals Tribunal granted the former staff member's appeal in part and ordered the Administration to provide him with the sum of USD 10,350 as in lieu compensation.

The Secretary-General of the United Nations has filed an application for interpretation of the original Judgment as to whether the non-family service allowance of USD 1,650 per month that the former staff member received as a

monthly entitlement should be deducted from the amount of compensation in lieu payable to him pursuant to that original Judgment. The former staff member has filed an application for execution of the original Judgment, requesting that the Appeals Tribunal enforce the full payment of USD 10,350 as in lieu compensation.

Legal Principle(s)

Either party may apply to the Appeals Tribunal for an interpretation of the meaning or scope of a judgment. This is particularly the case if the parties disagree on the meaning or scope of a judgment because it is unclear or ambiguous.

The non-family service allowance is intended to cover the additional financial cost of involuntary separation of staff from families and dependents in non-family duty stations, such as the cost of maintaining two households, not to provide additional remuneration or salary.

The very purpose of compensation is to place the staff member in the same position he or she would have been in, had the Organization complied with its contractual obligations. In many cases, interest will be, by definition, part of compensation.

Outcome

Revision, correction, interpretation or execution

Outcome Extra Text

The Secretary-General's application for interpretation of Judgment No. 2022-UNAT-1214 is granted.

Mr. Alam's application for execution of Judgment No. 2022-UNAT-1214 is partially granted.

Full judgment

[Full judgment](#)

Applicants/Appellants

Afm Badrul Alam

Entity

MINUSCA

Case Number(s)

2022-1701

2022-1706

Tribunal

UNAT

Registry

New York

Date of Judgement

3 Apr 2023

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Manifest abuse

In-lieu compensation

Execution of Judgment

Interpretation of Judgment

Benefits and entitlements

Abuse of process before UNDT/UNAT
Compensation
Judgment-related matters

Applicable Law

Administrative Instructions
Staff Rules

- Rule 3.15

UNAT Statute

- Article 11.4
- Article 9.2
- Article 11.3

Related Judgments and Orders

2022-UNAT-1214
2019-UNAT-910
2018-UNAT-827
2010-UNAT-059