ADMINISTRATIVE TRIBUNAL OF THE INTERNATIONAL MONETARY FUND

ORDER No. 2022-1

Mr. "LL", Applicant v. International Monetary Fund, Respondent
(Request for Interpretation of Judgment No. 2019-1)

The Administrative Tribunal of the International Monetary Fund,

- considering that on June 2, 2021, Applicant filed a Request for Interpretation of *Mr. "LL", Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2019-1 (April 5, 2019);[1]

- considering that on August 5, 2021, Respondent filed its Answer to Applicant's Request;[2]

- considering that on August 31, 2021, Applicant filed a Request for leave to file a Reply, together with that Reply;

- considering that on September 13, 2021, the President granted Applicant's request for leave to file the Reply, and the Reply was transmitted to Respondent for its Rejoinder;

- considering that Respondent filed its Rejoinder on September 30, 2021, and the Rejoinder was transmitted to Applicant for his information;

- considering that on April 5, 2022, Applicant filed a Request for Costs, and on April 14, 2022, Respondent filed its Response to Applicant's Request for Costs; and

- having considered the arguments of the parties,

unanimously adopts the following decision:

BACKGROUND

1. Applicant was injured in the course of his employment with the Fund, resulting in a career-ending disability. Following extensive litigation, in *Mr. "LL", Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2019-1 (April 5, 2019), the Tribunal sustained Applicant's principal claim, that the Administration Committee of the Staff Retirement Plan (SRP) erred when it replaced Applicant's early retirement pension with a disability pension and "coordinated" that pension with his workers' compensation annuity

[1] Applicant's Request for Interpretation of Judgment was supplemented on June 4, 2021, in response to a request by the Registrar.

[2] On June 21, 2021, the President granted Respondent's request for extension of time to file the Answer, following an opportunity for Applicant to comment on that request. Respondent's Answer was supplemented and revised on August 13, 2021, in response to a request by the Registrar.

in a particular manner. The Tribunal concluded that those decisions misinterpreted and misapplied SRP Section 10.5.

2. Accordingly, the Tribunal in Judgment No. 2019-1 rescinded the contested decisions of the SRP Administration Committee. The Tribunal also ordered measures to "correct the effects" (Statute, Article XIV, Section 1) of those rescinded decisions, so that, going forward, Applicant would be be paid: (i) an early retirement pension (SRP Section 4.2), retroactive to the date of his eligibility for such pension, paid solely by the SRP Retirement Fund; and (ii) a separate workers' compensation annuity (GAO No. 20) retroactive to the date of his separation from the Fund, paid solely by the IMF.[3]

APPLICANT'S REQUEST FOR INTERPRETATION OF JUDGMENT

3. It is not disputed that the Fund has taken the steps ordered in Judgment No. 2019-1 to provide Applicant with an early retirement pension and separate workers' compensation annuity. The Fund has also filed reports of these payments with national tax authorities. Applicant disputes the representations made by the Fund in those reports regarding the taxability of various payments. That is the controversy that gives rise to Applicant's Request for Interpretation of Judgment.

4. In his Request for Interpretation of Judgment, Applicant asks the Tribunal to ". . . issue a formal interpretation of *Mr. "LL"* that instructs the Fund not to take any position, or make any entry, on the 1099R [tax form] regarding the taxability of his Fund income." Additionally, and "[a]s part of this request for an interpretation, [Applicant] asks the Fund to reopen the Judgment to allow him to present a request for reimbursement of all pre-2020 tax owed," as well as for compensation for "stress and other psychological harm that he has sustained as a result of the Fund's taking of sides against him on the 1099R," and attorneys' fees and costs.

5. Respondent urges the Tribunal to reject Applicant's Request for Interpretation of Judgment as a "blatant attempt to reopen the Judgment to introduce a new claim which is, in reality, an issue between Applicant and [national tax authorities], and to the extent it involves the Fund at all, is an unexhausted claim." Respondent maintains that Applicant's Request is "not a request for interpretation, but a request to review and decide a new claim."

TRIBUNAL'S ANALYSIS

6. Article XIII, Section 2, of the Tribunal's Statute provides: "Judgments shall be final, subject to Article XVI and Article XVII, and without appeal." The Tribunal has explained that this statutory provision "codifies and applies to the Judgments of the Administrative Tribunal the universally recognized principle of *res judicata*, which prevents the relitigation of claims already adjudicated, promoting judicial economy and certainty among the parties." *Ms. "NN", Applicant v. International Monetary Fund, Respondent (Request for Revision of Judgment No. 2017-2)*, IMFAT Order No. 2018-1 (May 1, 2018), para. 1; *Mr. "R" (No. 2), Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2004-1 (December 10, 2004), paras. 24-27.

7. The Tribunal has observed that interpretation of judgments pursuant to Article XVII is

[3] In restoring retroactively Applicant's rightful entitlements under the Fund's internal law, the Tribunal also ordered that the Fund pay Applicant interest on those past due payments. *See Mr. "LL"*, "Decision," para. 5.

one of two "narrowly drawn exceptions" to the general rule of the finality of judgments. *Mr. "F", Applicant v. International Monetary Fund, Respondent (Interpretation of Judgment No. 2005-1)*, IMFAT Order No. 2005-2 (December 6, 2005), para. 6 and note 3. The other exception is for revision of judgments, pursuant to Article XVI.[4]

8. Article XVII of the Tribunal's Statute states: "The Tribunal may interpret or correct any judgment whose terms appear obscure or incomplete, or which contains a typographical or arithmetical error." Consistent with that statutory provision, Rule XX, para. 2, of the Tribunal's Rules of Procedure provides that an application for interpretation of judgment ". . . shall be admissible only if it states with sufficient particularity in what respect the operative provisions of the judgment appear obscure or incomplete." *See, e.g.*, *Ms. "C", Applicant v. International Monetary Fund, Respondent (Interpretation of Judgment No. 1997-1)*, IMFAT Order No. 1997-1 (December 22, 1997) (interpreting terms "costs" and "legal representation"). *See also Mr. "F", Applicant v. International Monetary Fund, Respondent (Interpretation of Judgment No. 2005-1)*, IMFAT Order No. 2005-2 (December 6, 2005), para.17 (denying request for interpretation of judgment where requesting party sought "advice rather than interpretation").

9. Applicant submits that the question presented by his Request for Interpretation of Judgment is a "specific and narrowly bounded one – *i.e.* may the Fund declare a Tribunal award of worker's compensation to be taxable *in light of the legal findings and holdings in Mr. "LL"*?" (Emphasis added.) Applicant proceeds to state: "Insofar as the Judgment in *Mr. "LL"* may not have explicitly answered this Fund-generated, post-Judgment question, the Judgment will have unintentionally left the issue as a *lacuna* in its disposition of the original matter. The Tribunal," contends Applicant, "may properly issue a binding interpretation that will 'help . . ensure that judgments are given effect in accordance with the tribunal's findings and conclusions' [quoting Commentary on the Statute] with regard to awards of worker's compensation."

10. In the view of the Tribunal, Applicant has failed to "state[ ] with sufficient particularity in what respect the operative provisions of the judgment appear obscure or incomplete" (Rule XX, para. 2). What Applicant contests are acts arising subsequent to the Judgment. In Applicant's own words, the issue he raises is a "Fund-generated, post-Judgment question" as to how the Fund reports to national tax authorities the payments generated by the implementation of Judgment No. 2019-1.[5]

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[4] Article XVI provides:

> A party to a case in which a judgment has been delivered may, in the event of the discovery of a fact which by its nature might have had a decisive influence on the judgment of the Tribunal, and which at the time the judgment was delivered was unknown both to the Tribunal and to that party, request the Tribunal, within a period of six months after that party acquired knowledge of such fact, to revise the judgment.

[5] In *Ms. GG (No. 2), Applicant v. International Monetary Fund, Respondent*, IMFAT Judgment No. 2015-3 (December 29, 2015), para. 466, the Tribunal stated:

> This Tribunal has not adopted a practice of stating that the compensation it awards is on a net-of-tax basis, although it is aware that such practice has been followed by some other international administrative tribunals, either as

11. What Applicant seeks by his Request for Interpretation of Judgment accordingly does not fall within the narrow exception to finality of judgments provided by Article XVII. *See Ms. "Y", Applicant v. International Monetary Fund, Respondent (Interpretation of Judgment No. 1998-1)*, IMFAT Order No. 1999-1 (February 26, 1999) para. 3 ("The adoption of the requested interpretation would constitute an amendment of the Judgment, which is not a matter in respect of which the applicable provisions of the Statute and the Rules of Procedure enable the Tribunal to decide by way of an interpretation, because the Judgment is final and without appeal."). Accordingly, Applicant's Request for Interpretation of Judgment must be denied.

12. The Tribunal further observes that Applicant's request would likewise be denied if it were to be understood as a request for revision of judgment, pursuant to Article XVI of the Statute. Applicant has not presented any evidence to support a claim that there were facts which might have had a decisive influence in his case but were unknown to him at the time and therefore the facts could not be presented to the Tribunal before a judgment was rendered. *See Ms. "NN", Applicant v. International Monetary Fund, Respondent (Request for Revision of Judgment No. 2017-2)*, IMFAT Order No. 2018-1 (May 1, 2018), para. 3.

ORDER

For the reasons set out above, Applicant's Request for Interpretation of Judgment No. 2019-1 is denied.

Edith Brown Weiss, President

Deborah Thomas-Felix, Judge

María Vicien Milburn, Judge

/s/
Edith Brown Weiss, President[6]

/s/
Celia Goldman, Registrar

Washington, D.C.
April 28, 2022

> a rule or in particular cases. [footnote omitted] In the view of the Tribunal, it is for the Fund to decide in the first instance whether (and, if so, how) the tax allowance of an applicant is to be adjusted to take account of the Tribunal's award of monetary compensation. Should a staff member dispute such decision, it would be subject to review in the usual manner through the Fund's dispute resolution system.

[6] Statute, Article VII, Section 4, provides in relevant part: "If the President recuses himself or is otherwise unable to hear a case, the most senior of the members shall act as President for that case . . . ."