



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2016-933

Siciliano
(Applicant)

v.

Secretary General
of the International Civil Aviation Organization
(Respondent)

ORDER No. 269 (2016)

1. On 24 May 2016, Mr. Mauricio Siciliano, a former staff member of the International Civil Aviation Organization (ICAO), filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) against the decision taken by the ICAO Secretary General to summarily dismiss him from service.

2. On 13 June 2016, Mr. Siciliano filed a motion for confidentiality. He requests that the judgment which the Appeals Tribunal will render in the above-referenced case “will not contain private information such as his identify (first and last name)”. He submits that his request is justified by the “very high sensitivity of [his] case, involving aspects of criminal law”. He further submits that the “wide publication” of his identity in a judgment issued by the Appeals Tribunal would be prejudicial to the privacy and safety of him and his family and would adversely affect his future employment prospects by damaging his reputation. In support of his request, Mr. Siciliano points out that the U.S. “criminal accusations against him, forming a part of the current appeal, [have] been totally dismissed” and, therefore, his name “should not be linked anymore to such a case”.

3. On 23 June 2016, the ICAO Secretary General filed her observations opposing the motion. She submits that there is no merit to Mr. Siciliano’s request and that he has failed to show that he has any greater need than other litigants for confidentiality. The ICAO Secretary General argues, *inter alia*, that the criminal charges were dismissed against Mr. Siciliano only on jurisdictional grounds, that U.S. criminal proceedings are public, and

that Mr. Siciliano's name as associated with that criminal case will remain part of the public record irrespective of the outcome of his appeal before the Appeals Tribunal.

4. The internal system of justice of the United Nations was established, *inter alia*, to create an independent, transparent and professionalized system.¹ In order to fulfil these requirements, in particular transparency, Article 10(9) of the Statute of the Appeals Tribunal and Article 20 of its Rules of Procedure (Rules) both provide that judgments of the Appeals Tribunal are to be published. Article 20(2) of the Rules further states that “[t]he published judgements will normally include the names of the parties”. The Appeals Tribunal has consistently held that “[t]he names of litigants are routinely included in judgments of the internal justice system of the United Nations in the interests of transparency and, indeed, accountability”² and that confidentiality can only be granted in exceptional circumstances and in cases of utmost sensitivity.³

5. I have reviewed the parties' submissions, and am not persuaded that Mr. Siciliano's request meets this test. I agree, thus, with the ICAO Secretary General that Mr. Siciliano has failed to show a “greater need than any other litigant for confidentiality”.⁴ As we have noted:⁵

Staff members ... often challenge employment-related decisions pertaining to their performance or even misconduct before the internal justice system. If confidentiality attached in each case, there would be no transparency regarding the operations of the Organization, which would be contrary to one of the General Assembly's purposes and goals for the internal justice system.

6. Even accepting for the sake of argument Mr. Siciliano's claim that his summary dismissal was based on the charges contained in the U.S. criminal indictment as opposed to information obtained independently, the criminal case in which Mr. Siciliano is named is a matter of public record. Given that whatever sensitive and private information contained therein is already part of the public domain, we are of the view that including his name in the judgment to be issued by the Appeals Tribunal would not raise any matters of the utmost sensitivity nor invade his personal or private affairs nor otherwise put him and his family at

¹ General Assembly resolution 61/261, para. 4.

² *Servas v. Secretary-General of the United Nations*, Order No. 127 (2013), para. 5.

³ *Rangel v. Registrar of the International Court of Justice*, Order No. 237/Corr.1 (2015). See also *Utkina v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-524, para. 18, and *Ahmed v. Secretary-General of the United Nations*, Order No. 132 (2013), para. 4.

⁴ *Servas*, *supra* note 2.

⁵ *Williams v. Secretary General of the International Civil Aviation Organization*, Order No. 146, para. 5 (2013).

any greater alleged risk than is already the case.⁶ We also consider irrelevant Mr. Siciliano's argument that "[t]he fact that the ICAO ha[d] already ... informed several international organizations and member states of [Mr. Siciliano's] situation ... should be considered sufficient to ensure transparency related to the operations within the Organization, without the need to widely publish [his] name [in the Tribunal's judgment]".

7. In view of the foregoing, Mr. Siciliano's Motion should be denied.

IT IS HEREBY ORDERED that Mr. Siciliano's Motion for Confidentiality **IS DENIED**.

Original and Authoritative Version: English

Dated 25th day of August 2016 in
Port of Spain, Trinidad and Tobago.

(Signed)
Judge Deborah Thomas-Felix,
President

Entered in the Register on this 29th day of
August 2016 in New York, United States.

(Signed)
Weicheng Lin, Registrar

⁶ *Utkina, supra* note 3, para. 19 (denying a request for redaction of information already in the public domain).