



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2021-1610

Emma Reilly

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 429 (2021)

1. On 28 September 2021, counsel for Ms. Emma Reilly filed an appeal on behalf of Ms. Reilly against Judgment No. UNDT/2021/093. That same day, counsel also filed a motion seeking leave to file additional pleadings, which counsel requests, should not be shared with his client. In support of his motion, counsel explains that before the United Nations Dispute Tribunal (UNDT or Dispute Tribunal), evidence had been disclosed “for counsel’s eyes only” meaning that while counsel was permitted to view the documents, he was not permitted to retain a copy. Ms. Reilly was not present at the time of the hearing when the document was considered, and the UNDT ordered that she should not be informed of the contents of the document nor discussions that had taken place during that part of the hearing.

2. Counsel for Ms. Reilly contends that during the hearing, the UNDT Judge made mention of possible options as to how to address this evidence in a judgment referencing the possibility of having a judgment to be provided to Ms. Reilly personally and another for counsel and UNAT. Counsel submits that he has made enquiries with the Geneva registry of the UNDT and confirmed there is no separate judgment addressing this evidence. He contends that the UNDT Judgment “inexplicably ignores the issue and related evidence heard by the [UNDT]”.

3. Counsel submits that the evidence is highly relevant to the case and that it would run clearly contrary to the interests of justice for this evidence not to be considered by the UNAT. On appeal, in order to comply with the UNDT Order not to disclose the content of the evidence to Ms. Reilly, yet to represent her interests before the UNAT, he found it necessary to prepare an appeal brief shared with Ms. Reilly that makes no reference to this material as well as an additional pleading, which would not be shared with Ms. Reilly, addressing the content of the evidence.

4. I have carefully considered the motion as well as the particular circumstances of this case. I find the motion not receivable on grounds that counsel has no standing to file a submission on behalf of his client without his client's consent to the content of the filing. However, given that counsel submits that the evidence is highly relevant to the case, I find that it is in the interest of justice that counsel refile one consolidated appeal brief, accessible to his client, which should address how this particular issue impacts the Appellant's argument on the evidence and procedure before the UNDT and his capacity to represent his client given Ms. Reilly's inability to know or be completely aware of the contents of the relevant evidence and arguments pertaining to that evidence. This brief will also be shared with the Respondent.

5. Pursuant to normal tribunal practice and procedure, the Respondent will have access to all appeal documents in the Appeals Tribunal's file including the motion in support of this Order. Also pursuant to normal procedure, once the Appellant's brief is filed further to this Order, the Respondent will have an opportunity to respond to the appeal as filed.

6. The parties may, before or upon receipt of the brief, attempt to come to an agreement on whether the status of the evidence in question should remain "for counsel's eyes only" or may be amended. If amended by agreement, the parties should advise UNAT, in writing, the terms of that agreement within seven days of reaching that agreement.

IT IS HEREBY ORDERED that the motion for additional pleadings is **DENIED**. Counsel for Ms. Reilly is ordered to refile the appeal brief **by 8 November 2021 COB (New York time)** in accordance with the above terms. Should the parties, before or upon receipt of the brief, come to an agreement that the status of the evidence in question should be amended, they should advise UNAT in writing within seven days of reaching that agreement.

Original and Authoritative Version: English

Dated this 25th day of October 2021
in Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
Presiding

Entered in the Register on this 25th day
of October 2021 in New York, United States.

(Signed)
Weicheng Lin, Registrar