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

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Case No. 2017-1064

**Sarrouh**  
**(Respondent/Applicant)**

**v.**

**Secretary-General of the United Nations**  
**(Appellant/Respondent)**

**Order No. 280 (2017)**

1. On 22 December 2016, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) issued Judgment No. UNDT/2016/220 in the case of *Sarrouh v. Secretary-General of the United Nations*. The UNDT found that Ms. Elissar Sarrouh was unlawfully terminated and, *inter alia*, ordered rescission and in-lieu compensation. The Secretary-General appealed the Judgment to the United Nations Appeals Tribunal (Appeals Tribunal) on 20 February 2017. Ms. Sarrouh filed her answer on 13 April 2017.

2. On 20 February 2017, the Secretary-General filed a motion seeking leave to adduce additional evidence. On 1 March 2017, Ms. Sarrouh filed her response to the motion asking that this Tribunal deny the Secretary-General's request. In the event the Appeals Tribunal grants the motion, she seeks leave to file additional evidence on her part. In his observations filed on 13 March 2017, the Secretary-General reiterated his claims and did not object to Ms. Sarrouh's counter-motion.

3. In support of his motion, the Secretary-General claims that the evidence he seeks to introduce demonstrates that Ms. Sarrouh was receiving termination indemnity and compensation in lieu of notice during the period covered by the in-lieu compensation awarded by the UNDT and that she was gainfully employed during much of that period. The Secretary-General further requests the Appeals Tribunal to order the United Nations Joint Staff Pension Fund (UNJSPF) and Ms. Sarrouh, respectively, to produce evidence of retirement benefits that were or will be paid to her and of income

earned or to be earned by her during the relevant period covered by the in-lieu compensation. All such evidence goes toward corroborating the Secretary-General's claim on appeal that the UNDT erred in awarding excessive in-lieu compensation. He further states that the relevance of the additional evidence was not known to him at the time of his submissions to the UNDT and only became apparent once the UNDT Judgment was issued. Citing several Orders of this Tribunal,<sup>1</sup> he argues that the evidence, thus, should be admitted in the interest of justice and the efficient and expeditious resolution of the case.

4. Pursuant to Article 2(5) of the Statute of the Appeals Tribunal and Article 10(1) of its Rules of Procedure, the Appeals Tribunal may receive additional evidence in exceptional circumstances, if it is in the interest of justice and the efficient and expeditious resolution of the proceedings. The Secretary-General primarily proffers/requests production of evidence for additional compensation and pension benefits received by Ms. Sarrouh as well as for income-producing activities on her part during the relevant period for the calculation of in-lieu compensation. Given that the Secretary-General's appeal challenges the amount of in-lieu compensation awarded to Ms. Sarrouh, this Tribunal finds the proffered evidence is relevant to the Appeals Tribunal's review of her case. The evidence sought to be adduced by Ms. Sarrouh in her counter-motion revolves around the same question of reasonableness and legality of the awarded in-lieu compensation and allows for its full and fair assessment. Considering, in addition, that the Secretary-General does not object to her counter-motion, both motions should be granted in the interest of justice.

5. For the foregoing reasons, the Secretary-General's motion and Ms. Sarrouh's counter-motion ARE GRANTED. IT IS ORDERED that the exhibits attached to the motion as well as to the counter-motion shall be part of the record before the Appeals Tribunal during its consideration of the case. IT IS FURTHER ORDERED that the UNJSPF produce evidence of the retirement benefits that have been or will be paid to Ms. Sarrouh during the period covered by the compensation in lieu of rescission.

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<sup>1</sup> *Hersh v. Secretary-General of the United Nations*, Order No. 156 (2013); *Likuyani v. Secretary-General of the United Nations*, Order No. 120 (2012).

Original and Authoritative Version: English

Dated 26<sup>th</sup> day of April 2017 in Port of Spain, Trinidad and Tobago.

*(Signed)*  
Deborah Thomas-Felix  
President

Entered in the Register on this 26<sup>th</sup> day of April 2017 in New York, United States.

*(Signed)*  
Weicheng Lin, Registrar