



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2015-859

George Nikolarakis

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 421 (2021)

1. On 6 August 2015, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) issued Judgment No. 2015/071 (UNDT Judgment), granting the application of George Nikolarakis (Mr. Nikolarakis) in which he challenged the decision of the Administration not to promote him to the post of Senior Security Officer at the S-3 level.¹
2. On 30 June 2016, the United Nations Appeals Tribunal (Appeals Tribunal or UNAT) reversed the UNDT Judgment finding that the Dispute Tribunal had erred by deciding, *inter alia*, that the Administration lacked discretion to require all candidates applying for the Senior Security Officer post to pass a competency-based interview.²
3. On 3 August 2021, almost five years after the UNAT Judgment was released, Mr. Nikolarakis filed a Motion for Confidentiality seeking that the UNAT Judgment be sealed and kept confidential. He also asks that the UNAT Judgment be removed from internet search engines as the information contained therein could be purportedly used by foreign intelligence services in developing and recruiting assets. Furthermore, Mr. Nikolarakis argues that he is protected by the United Nation's whistleblower policy

¹ *Nikolarakis v. Secretary-General of the United Nations*, Judgment No. UNDT/2015/071 dated 6 August 2015 (UNDT Judgment).

² *Nikolarakis v. Secretary-General of the United Nations*, Judgment No. 2016-UNAT-652 dated 30 June 2016 (UNAT Judgment).

and his speaking out against management should not later become detrimental to his chances when applying for promotion or other lateral positions.

4. The Respondent filed his comments on 13 August 2021, arguing that Mr. Nikolarakis has not demonstrated a need for confidentiality that would outweigh the guiding principle of transparency in judicial proceedings and the requirement under Article 10(9) of the Appeals Tribunal Statute (Statute) to publish judgments.

5. The Secretary-General also notes that it is unclear whether Mr. Nikolarakis has made a similar request regarding the underlying UNDT Judgment, which has been part of the public record for six years. Additionally, the Respondent remarks that Mr. Nikolarakis also did not make a similar request regarding Judgment No. 2018-UNAT-832, which relates to his successful claim concerning a different recruitment exercise.

6. There is no merit to Mr. Nikolarakis' motion for confidentiality. The Appeals Tribunal has previously determined 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".³ And Mr. Nikolarakis has not shown any "greater need than any other litigant for confidentiality".⁴ Having read the language of the UNAT Judgment which Mr. Nikolarakis requests to be made anonymous, i.e., Judgment No. 2016-UNAT-652, this Appeals Tribunal has not found any sensitive information which could justify such a determination. Rather, the issues discussed therein are quite ordinary and relate to the selection exercise, which was ultimately found to be lawful.

7. Staff members of the Organization often challenge employment-related decisions before the internal justice system. If confidentiality is 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.⁵

8. Thus, in the absence of any compelling reasons to support Mr. Nikolarakis' motion, which would in fact countervail the universal principle of judicial transparency, the instant motion is denied.

³ *Servas v. Secretary-General of the United Nations*, Order No. 127 (2013).

⁴ *Ibid.*

⁵ See *Abu Jarbou v. Commissioner-General of the United Nations Relief and Works Agency for Refugees in the Near East*, Judgment No. 2013-UNAT-292.

IT IS HEREBY ORDERED that Mr. Nikolarakis' motion is **DENIED**.

Original and Authoritative Version: English

Dated this 17th day of August 2021
in Iri-Anchora, Brazil.

(Signed)
Judge Martha Halfeld, President

Entered in the Register on this 17th day
of August 2021 in New York, United States.

(Signed)
Weicheng Lin, Registrar