



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2021-1509

Marius Mihail Russo-Got

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 425 (2021)

1. On 17 November 2020, the United Nations Dispute Tribunal (UNDT) in New York issued Judgment No. UNDT/2020/194 in the case of *Russo-Got v. Secretary-General of the United Nations*, in which the UNDT dismissed an application by Mr. Marius Mihail Russo-Got contesting the decisions to not select him for several positions with the United Nations Office of Project Services (UNOPS).
2. On 13 January 2021, Mr. Russo-Got filed an appeal against the UNDT Judgment with the United Nations Appeals Tribunal (Appeals Tribunal). On 22 March 2021, the Secretary-General filed his answer.
3. On 7 August 2021, Mr. Russo-Got submitted a second motion for leave to file additional pleadings. He also attached as additional evidence a summary report dated 6 July 2021 prepared by the “Romanian Association for Human Rights”. The summary report contains comments and findings on the jurisdiction of UNOPS to investigate Mr. Russo-Got, the authenticity of one of the documents that Mr. Russo-Got attached to his motion dated 27 April 2021 and the reliability of the UNICEF’s e-mail server. It appears to have been endorsed by a Director of the Romanian Government, the Romanian Ministry of Internal Affairs, and a Romanian district court.

4. On 23 August 2021, the Secretary-General filed his response to the motion. He requests that the Appeals Tribunal reject the motion. In his view, Mr. Russo-Got's claims contesting UNOPS' investigation are the subject of a separate case pending before the Dispute Tribunal and thus fall outside the scope of the present case. The Secretary-General states that Mr. Russo-Got has failed to demonstrate exceptional circumstances justifying the Appeals Tribunal's receipt of either his additional pleadings or his additional evidence. He maintains that the additional document neither proves nor establishes the facts that are directly relevant to the present case. Moreover, the credibility of the document and the allegations contained therein is doubtful.

5. Article 2(5) of the Statute of the Appeals Tribunal reads: "In exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, including written testimony, it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings."

6. We interpret Mr. Russo-Got's application to encompass two new elements. First, he seeks to introduce a new pleading into his appeal, that is he wishes to advance a new ground of appeal. Second, and associated with the first, he seeks to introduce a new document for consideration by this Tribunal. It is convenient to deal with the second element first because, if this fails, then there will be no need to consider the first, the new pleading.

7. We do not consider that it will be in the interests of justice and the efficient and expeditious resolution of these proceedings before this Tribunal to admit and consider this new evidence. That is because, as the Respondent points out, the evidence relates to another proceeding brought by the Appellant which is still before the UNDT for decision and in which it is arguably relevant. We express its relevance thus because we do not determine its relevance: that will be for the UNDT to determine if the issue arises there. If Mr. Russo-Got is dissatisfied with the UNDT's judgment in those proceedings, including potentially as regards that evidence, he will have rights of appeal to this Tribunal and he will, in the exercise of those rights if they are open to him, be able to bring the evidence before us in the context of that case. His application to do so now is at best premature.

8. There is another reason why, to allow this evidence to be admitted in the current appeal, it would not be in the interests of justice. If this Tribunal were to now consider this new evidence but find it irrelevant or inadmissible or of little or no weight (the positions the Respondent takes on it), then this would, at best, inhibit its use by Mr. Russo-Got in the UNDT or, at worst, preclude him from introducing it there because its evidential worth to him would already have been decided by this Tribunal.

9. For these reasons, we refuse to admit the new evidence proposed by Mr. Russo-Got and it follows that we therefore also refuse his implied application to introduce a new pleading relating to it.

IT IS HEREBY ORDERED that Mr. Russo-Got's motion seeking leave to file additional pleadings and evidence is **DENIED**.

Original and Authoritative Version: English

Dated this 22nd day of September 2021
in Auckland, New Zealand.

(Signed)
Judge Graeme Colgan,
Presiding

Entered in the Register on this 22nd day
of September 2021 in New York, United States.

(Signed)
Weicheng Lin, Registrar