



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2022-1715

Flamur Kazazi

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 488 (2022)

1. On 27 July 2022, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Nairobi issued Order No. 090 (NBI/2022) (UNDT Order) in the case of *Kazazi v. Secretary-General of the United Nations*, in which it determined a list of five witnesses to testify at the hearing and found that most of the Applicant's witnesses were not necessary.
2. On 28 July 2022, Mr. Kazazi filed an appeal against the UNDT Order with the United Nations Appeals Tribunal (Appeals Tribunal). On 29 August 2022, the Secretary-General filed his answer.
3. On 28 September 2022, the Secretary-General filed a motion for leave to submit additional evidence and pleadings before the Appeals Tribunal, namely, a copy of Judgment No. UNDT/2022/87 dated 22 September 2022 (the UNDT Judgment) which is the final judgment on the merits of Mr. Kazazi's original application before the UNDT. The Secretary-General says evidence of this judgment is a new fact that is highly relevant to the interlocutory appeal of the same case that was not previously available when the UNDT made its earlier decision on witnesses. In his additional pleading, the Secretary-General argues that the UNDT Judgment renders Mr. Kazazi's interlocutory appeal moot, and requests that the UNAT dismiss the appeal. Mr. Kazazi did not file any response.
4. This matter is governed by Article 10 of the Appeals Tribunal Rules of Procedure, which provides materially that:

A party may seek to submit to the Appeals Tribunal, with an appeal or an answer, documentary evidence, including written testimony, in addition to that contained in the written record. In exceptional circumstances and where the Appeals Tribunal determines that the facts are likely to be established with such additional documentary evidence, it may receive the additional evidence from a party (···) provided that the Appeals Tribunal shall not receive additional written evidence if it was known to the party seeking to submit the evidence and should have been presented to the Dispute Tribunal.

5. I deny the Secretary-General's request to submit additional evidence. The UNDT Judgment is not documentary evidence but a judicial determination on the public record. There is no need for a party to seek leave to present a judgment for consideration in these circumstances.

6. The Secretary-General's request to submit additional pleadings is governed by the Appeals Tribunal's Practice Direction No. 1, Section II.A.3, wherein such pleadings may be accepted in exceptional circumstances. I consider the issuance of the UNDT Judgment to be such a circumstance and will accept the Secretary-General's additional pleadings.

7. As there is a final judgment on the matter (which is in the public record), Mr. Kazazi may wish to consult with his attorney as to whether to continue his interlocutory appeal of the UNDT Order and consider whether issues regarding limitation of witnesses is more properly a consideration in any appeal of the final UNDT Judgment.

IT IS HEREBY ORDERED that the Secretary-General's motion seeking leave to file additional evidence **IS DENIED** and his request to submit additional pleadings is **GRANTED**.

Original and Authoritative Version: English

Decision dated this 2nd day of November 2022 in
Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
Duty Judge

Order published and entered in the Register on this
2nd day of November 2022 in New York, United States.

(Signed)
Juliet Johnson,
Registrar