



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2023-1778

Humphreys Shumba

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 511 (2023)

1. On 7 October 2022, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Nairobi issued Judgment No. UNDT/2022/103 in the matter of *Shumba v. Secretary-General of the United Nations* (the Judgment). The deadline for filing an appeal of this Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) was 6 December 2022.
2. On 20 January 2023, the Appeals Tribunal granted Mr. Shumba's request and granted him a period of 7 days following receipt of the Order, to file a fully compliant appeal with the Registry (Order No. 502).
3. On 23 January 2023, the Registry wrote to Mr. Shumba's representative and advised him that the annexes should be labeled at the top right side portion of the first page of each annex and should have continuous page numberings, and provided samples. His representative confirmed receipt of this communication on 25 January 2023.
4. On 1 February 2023, the Registrar of the Appeals Tribunal advised Mr. Shumba's representative that the appeal filed was not compliant with the Registry's rules regarding consecutive page numbers for all of the annexes, from Annex 1 through Annex 7. The Registrar stated that there was one final opportunity to submit the appeal with the proper pagination and labeling of Annexes, and requested that the compliant appeal be resubmitted no later than 5 p.m. Monday, 6 February 2023, New York time.

5. On 9 February 2023, the Registrar informed Mr. Shumba’s representative that the Registry could not accept the appeal filed which was contrary to the President’s Order No. 502 that granted Mr. Shumba “a period of 7 days (...) to file a fully compliant appeal with the Registry” from 20 January 2023, a “fully compliant” appeal being an appeal submitted in accordance with the Registry’s procedures, including various formatting requirements. According to the President’s Order No. 470, the Appeal Tribunal’s Practice Direction No. 1, paragraph 8, makes it mandatory that “[e]ach page of all documents filed must be numbered consecutively at its foot”. The Registrar determined that the appeal filed on 28 January 2023 did not comply with this consecutive pagination requirement and did not include all of the referenced annexes and, therefore, was not a fully compliant appeal. Pursuant to Article 8, Section 4 of the UNAT Rules of Procedure, the Registrar exceptionally gave the Appellant until 6 February 2023 to make corrections to the appeal, but he failed to do so.

6. Accordingly, because a fully compliant appeal was not filed within the time frame mandated by the President’s Order No. 502, the Registry held that it could not accept the appeal, and closed the case file.

7. On 16 February 2023, Mr. Shumba’s representative filed a motion challenging the Registrar’s decision. In support of his motion, the Appellant contends that he never saw the communication by the Registrar rejecting the filing until Friday, 10 February 2023, and that he strongly believes that he complied with all the requirements for filing the appeal and that any departure from the requirements is minor and does not manifestly make the documents inadmissible for the interest of justice as the matter ought to be decided on the merits, not on the basis of technicalities. In the alternative, he requests an order for an extension of the time limit to enable him to file his appeal.

8. The Registrar was correct in her decision. The decision of the Registrar to reject his appeal is lawful. Paragraph 20 of Practice Direction No. 1 reads as follows:

F. Manifestly inadmissible filings

20. The Registrar shall have the power to reject filings which are manifestly inadmissible.

9. Mr. Shumba's appeal is currently inadmissible because it violates the provisions laid out in Practice Direction No. 1, as amended according to the President's Order No. 470 (2022), that provides:

8. Briefs must contain numbered paragraphs. Each page of all documents filed must be numbered consecutively at its foot. The relevant form must contain a correct and complete index which succinctly describes each annexed document and sets out the pages of the Annex at which it can be found.

9. Filed documents must have page numbering and contain numbered paragraphs. Each annex to a filed document must have page numbering.

10. Mr. Shumba's appeal and annexes did not comply with this consecutive pagination requirement and did not include all of the referenced annexes. Therefore, it was not a fully compliant appeal as required by Order No. 502.

11. Mr. Shumba's request to exempt him from the requirements of Order No. 502 and Practice Direction no. 1 is misplaced. The Registry had granted him multiple opportunities to file a fully compliant appeal by meeting the consecutive pagination requirement. Mr. Shumba has not presented convincing reasons why this could not be done, other than that he did not know the process despite having a representative to assist him. It would be unfair if he was allowed to file a non-compliant appeal brief while other parties are held to the Practice Direction requirements.

12. However, in the interest of justice and on an exceptional basis, I will grant Mr. Shumba a last chance to save his appeal one last time by ensuring consecutive pagination and the submission of all referenced annexes as required by the Practice Directive.

13. However, Mr. Shumba has been granted many opportunities to submit an appeal despite being late and despite not being fully compliant. This cannot continue indefinitely. The Appellant's subsequent and continued failure to abide by deadlines and directives will make the appeal manifestly inadmissible. Therefore, no further opportunities will be granted.

IT IS HEREBY ORDERED that the motion against the Registrar’s decision to reject Mr. Shumba’s appeal as currently filed as manifestly inadmissible is **ADJOURNED** and **Mr. Shumba is ordered to submit an appeal with consecutive pagination and all referenced annexes no later than 3 March 2023**. If Mr. Shumba fails to do so, the rejection of his appeal as manifestly inadmissible will become final and the file will be closed.

Original and Authoritative Version: English

Decision dated this 27th day of February 2023
in Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
President

Order published and entered in the Register on this
27th day of February 2023 in New York, United States.

(Signed)
Juliet Johnson,
Registrar