



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2011-237

Nyakossi (Appellant)

v.

Secretary-General of the United Nations (Respondent)

ORDER No. 72 (2011)

1. On 16 June 2011, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) issued Judgment No. UNDT/2011/101 in respect of an application of Mr. Nyakossi. The Secretary-General filed an appeal against the UNDT Judgment on 28 July 2011. The appeal was served on Mr. Nyakossi on 10 August 2011. The time limit for filing an answer was therefore 26 September 2011.

2. On 11 October 2011, Mr. Nyakossi filed a “Motion for Waiver of Time Limit and For Leave to File a Response on Appeal” (Motion). In support of his request, he submits that, upon receipt of the Secretary-General’s appeal, he had instructed the Office of Staff Legal Assistance (OSLA) to file, on his behalf, an answer to the Secretary-General’s appeal. However, due to an internal oversight within OSLA unrelated to Mr. Nyakossi, no such action was taken. He therefore requests that he be granted ten days from the date of filing his Motion to file his answer. He also requests that any Order issued in this matter should not be published in order to preserve the privacy of the concerned OSLA staff member.

3. Under Article 30 of the Rules of Procedure of the United Nations Appeals Tribunal (Rules and Appeals Tribunal, respectively), “the President or the panel hearing a case may shorten or extend a time limit fixed under the rules of procedure or waive any rule when the interests of justice so require”. While the Appeals Tribunal has consistently held that it strictly enforces the various time limits under its Statute and

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Rules,¹ I find that in this particular case, it is in the interests of justice to waive the time limit for filing an answer to the Secretary-General's appeal. The oversight within OSLA was related to the extended absence of a staff member, and upon discovery of the oversight, Chief of OSLA immediately assigned the case to another staff member who filed this Motion the following day. The detailed explanation provided by Mr. Nyakossi in support of his Motion is reasonable and he would be unfairly prejudiced by the aforementioned oversight should he be deprived of the possibility to file his answer.

4. I have taken great care not to identify the concerned OSLA staff member in this Order and therefore find no merit in Mr. Nyakossi's request that any Order issued in this matter not be published in order to preserve the privacy of the concerned OSLA staff member. However, as a result of these privacy concerns, I order proprio motu that his Motion be placed under seal and classified ex parte.

5. For the foregoing reasons, I grant Mr. Nyakossi's Motion and order that, under Article 30 of the Rules of the Appeals Tribunal, he shall file an answer to the Secretary-General's appeal, if any, within ten days from receipt of this Order. I further order Mr. Nyakossi to attach a copy of this Order to his answer, if any.

Original and Authoritative Version: English

Dated this 3rd day of November 2011 in Accra, Ghana.

(Signed)
Judge Adinyira, Duty Judge

Entered in the Register on this 3rd day of November
2011 in New York, United States.

(Signed)
Weicheng Lin, Registrar

¹ *Meron v. Secretary-General of the United Nations*, Order No. 42 (2011), 25 February 2011; *Islam v. Secretary-General of the United Nations*, Order No. 7 (2010), 8 September 2010; *Mezoui v. Secretary-General of the United Nations*, Judgment No. 2010-UNAT-043, 1 July 2010.