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# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

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Case No. 2012-311

**Charles**  
**(Appellant)**

**v.**

**Secretary-General of the United Nations**  
**(Respondent)**

**ORDER No. 109 (2012)**

1. On 14 February 2012, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) issued Judgment No. UNDT/2012/023 in the case of *Charles v. Secretary-General of the United Nations*. Mr. Lestrade A. Charles filed an appeal to the United Nations Appeals Tribunal (Appeals Tribunal) on 27 March 2012. The Secretary-General filed an answer on 1 June 2012.
2. On 11 September 2012, Mr. Charles filed a motion seeking leave to file additional pleadings (Motion). On 26 September 2012, the Secretary-General filed his observations on the Motion.
3. In support of his Motion, Mr. Charles requests that the Appeals Tribunal consider the case in light of the provisions of Administrative Instruction ST/AI/2010/3 (Staff Selection System) of April 2010 in force at the time of the contested selection process and not to apply retroactively the amendment to ST/AI/2010/3 dated 29 June 2012 (ST/AI/2010/3/Amend.1). Mr. Charles contends that the retroactive implementation of the amendment would be unlawful as it radically changes the original meaning of the Administrative Instruction. He submits that it would unfairly disadvantage his interests in the present case.

4. The Secretary-General notes that pursuant to the provisions of the amendment to ST/AI/2010/3, the amendment is only applicable to selection processes initiated on or after 22 April 2010. He submits therefore that the amendment does not apply to this case, since the contested selection process was initiated prior to 22 April 2010. The Secretary-General requests that the Appeals Tribunal deny the Motion. He further requests a reasonable period of time to respond to the Appellant's motion, should the Appeals Tribunal grant his Motion.

5. Articles 8 and 9 of the Rules of Procedure of the United Nations Appeals Tribunal (Rules) provide for an appellant to submit an appeal form, accompanied by a brief, and for a respondent to submit an answer form, accompanied by a brief.

6. Pursuant to Article 31(1) of the Rules and Section II.A.3 of Practice Direction No. 1 of the Appeals Tribunal, the Appeals Tribunal may allow a motion requesting leave to file additional pleadings after the filing of the answer to the appeal if there are exceptional circumstances justifying the motion.

7. Both parties argue, on different grounds, that the amendment to ST/AI/2010/3 does not apply to Mr. Charles' case. However, since the contested issue goes directly to the merits of the case, I believe that it is for the panel and not the Duty Judge to dispose of the motion.

8. For the foregoing reason, I admit Mr. Charles' additional filing. However, since the Secretary-General has already submitted substantial comments on the matter, I deny his request to reply to the additional pleading.

Original and Authoritative Version: English

Dated this 10<sup>th</sup> day of October 2012 in Buenos Aires,  
Argentina.

*(Signed)*  
Judge Inés Weinberg de Roca,  
President

Entered in the Register on this 10<sup>th</sup> day of October  
2012 in New York, United States.

*(Signed)*  
Weicheng Lin, Registrar