



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2012-423

**Branche
(Applicant)**

v.

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

ORDER No. 151 (2013)

1. On 7 November 2012, the United Nations Dispute Tribunal in New York issued Judgment No. 2012/170 in *Branche v. Secretary-General of the United Nations*. Ms. Jennifer Branche appealed the Judgment on 12 December 2012 and the Secretary-General filed his answer on 6 February 2013.

2. On 29 July 2013, Ms. Branche filed a “Motion for Filing of New Authorities”, with an attached exhibit (proposed annex 8) she requests be admitted into evidence. On 7 August 2013, the Secretary-General filed his observations on the motion.

3. Ms. Branche makes two requests in her motion. First, she requests that the United Nations Appeals Tribunal (Appeals Tribunal) take cognizance of Judgment No. 2013-UNAT-303 issued by the Appeals Tribunal on 24 May 2013 in the case of *O'Hanlon v. Secretary-General of the United Nations*, which she contends is dispositive of her appeal. Second, she requests that e-mail correspondence between the Secretary-General and herself regarding the application of *O'Hanlon* to the contested administrative decision be admitted into evidence.

4. The Secretary-General has no objection to Ms. Branche's request that the Appeals Tribunal take cognizance of *O'Hanlon* and asks that he be given 15 days to file comments on its applicability to the pending appeal, should the Appeals Tribunal accede to the request. The Secretary-General, however, opposes the admission into evidence of the

proposed annex 8, contending that, under Article 2(5) of the Appeals Tribunal's Statute (Statute), "exceptional circumstances" are required before additional evidence may be admitted and Ms. Branche has not shown such "exceptional circumstances".

5. Article 2(5) of the Statute provides for the admission of new documentary evidence "[i]n exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, including written testimony" and if it is "in the interest of justice and the efficient and expeditious resolution of the proceedings".

6. Ms. Branche has not shown that either "exceptional circumstances" exist or that "the facts are likely to be established" by the documentary evidence she seeks to have admitted into evidence, within the meaning of Article 2(5) of the Statute.

7. Turning to Ms. Branche's request that the Appeals Tribunal take cognizance of *O'Hanlon*, "[t]he Appeals Tribunal may of course consider its own jurisprudence in disposing of cases".¹ The Judgment in the *O'Hanlon* case was issued on 24 May 2013, after the parties had filed their respective submissions. Ms. Branche submits that this Judgment is dispositive of her appeal. Under these circumstances, Ms. Branche's request should be granted.

¹ *Debebe v. Secretary-General of the United Nations*, Order No. 116 (2012).

IT IS HEREBY ORDERED THAT:

Ms. Branche's Motion For Filing New Authorities is granted, in part, and denied, in part.

1. The Registrar is directed to add the *O'Hanlon* Judgment as part of the case file. The parties may, if they so choose, file concurrent legal memoranda of no more than five (5) pages addressing the application of *O'Hanlon* to the pending appeal, provided said memoranda are filed no later than seven (7) days from the date of this Order.

2. The request to file proposed Annex 8 (attached to the motion) is denied.

Original and Authoritative Version: English

Dated this 21st day of August 2013 in
Los Angeles, United States.

(Signed)
Judge Rosalyn Chapman,
Duty Judge

Entered in the Register on this 21st day of
August 2013 in New York, United States.

(Signed)
Weicheng Lin, Registrar