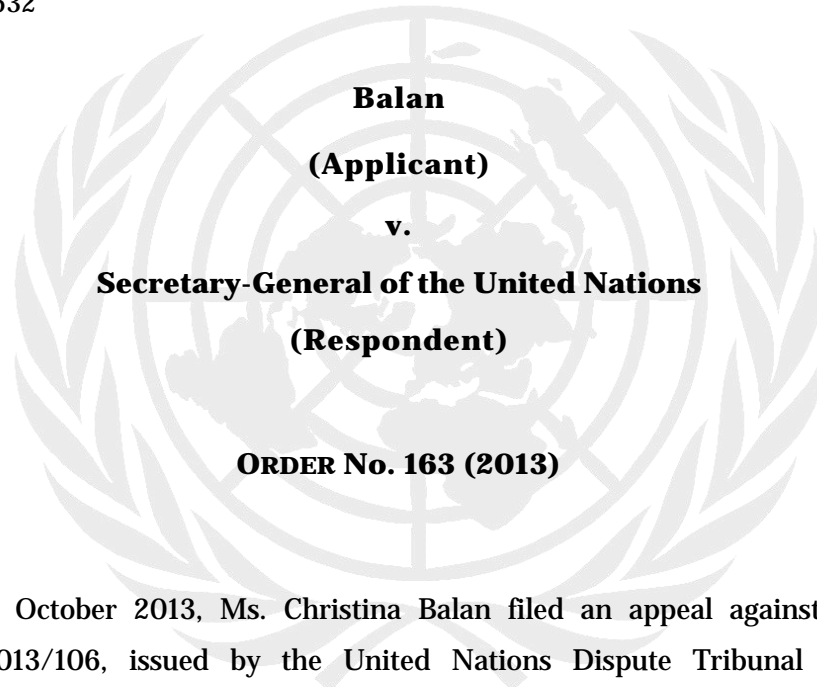




UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2013-532



Balan
(Applicant)

v.

Secretary-General of the United Nations
(Respondent)

ORDER No. 163 (2013)

1. On 22 October 2013, Ms. Christina Balan filed an appeal against Judgment No. UNDT/2013/106, issued by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva on 22 August 2013 in the case of *Balan v. Secretary-General of the United Nations*.
2. On 28 October 2013, Ms. Balan filed a Motion seeking “a retroactive extension of the deadline in this matter such that her appeal submitted 22 October 2013 can be considered to have been filed in a timely fashion”. In support of her motion, Ms. Balan submits that she encountered “technical delays in logging into the CCMS system and the uploading process”, due to which the appeal was recorded 30 minutes past the deadline. While Ms. Balan acknowledges the tardiness of her appeal, she contends that the narrow margin by which she missed the prescribed deadline represents exceptional circumstances required for granting her request.
3. Article 7(1)(c) of the Statute of the Appeals Tribunal provides that an appeal must be filed within 60 calendar days of receipt of the Dispute Tribunal judgment. Article 7(3) empowers the Appeals Tribunal to “suspend or waive the deadlines for a limited period of time ... in exceptional circumstances”.

4. The Appeals Tribunal expects parties to diligently protect their interests and takes time limits and other statutory procedures seriously. It does, however, have the power to waive the time limit for filing an appeal when “exceptional circumstances” so justify.

5. In the instant matter, the UNDT Judgment was rendered by the UNDT, and received by Ms. Balan, on 22 August 2013. The 60-day time limit for filing the appeal therefore expired on 21 October 2013. Pursuant to paragraph 4 of Practice Direction No. 1, “[d]ocuments received by the Registry after the close of office hours will be filed on the following working day”. Because Ms. Balan’s appeal was recorded by CCMS at 5:30 pm on 21 October 2013, it was filed on 22 October 2013, and therefore outside the prescribed time limit.

6. It appears as though the delay was caused by technical difficulties associated with the filing of the appeal in CCMS. Similar problems have been brought to the Appeals Tribunal’s attention in previous cases and may, in particular if supported by evidence (e.g. production of delivery failure messages or correspondence with the Tribunal’s information technology support officers), warrant an extension or waiver of time. In the circumstances of Ms. Balan’s specific case, which turns on a minimal delay of 30 minutes, I find it reasonable to accept her good faith explanation without such supporting evidence.

7. In view of the foregoing, and in the interests of protecting access to justice, I grant the Motion and accept Ms. Balan’s appeal as validly filed. The Secretary-General shall have one additional day to file his answer to Ms. Balan’s appeal.

Original and Authoritative Version: English

Dated this 20th day of November 2013 in Accra, Ghana.

(Signed)
Judge Sophia Adinyira

Entered in the Register on this 20th day of November 2013 in New York, United States.

(Signed)
Weicheng Lin, Registrar