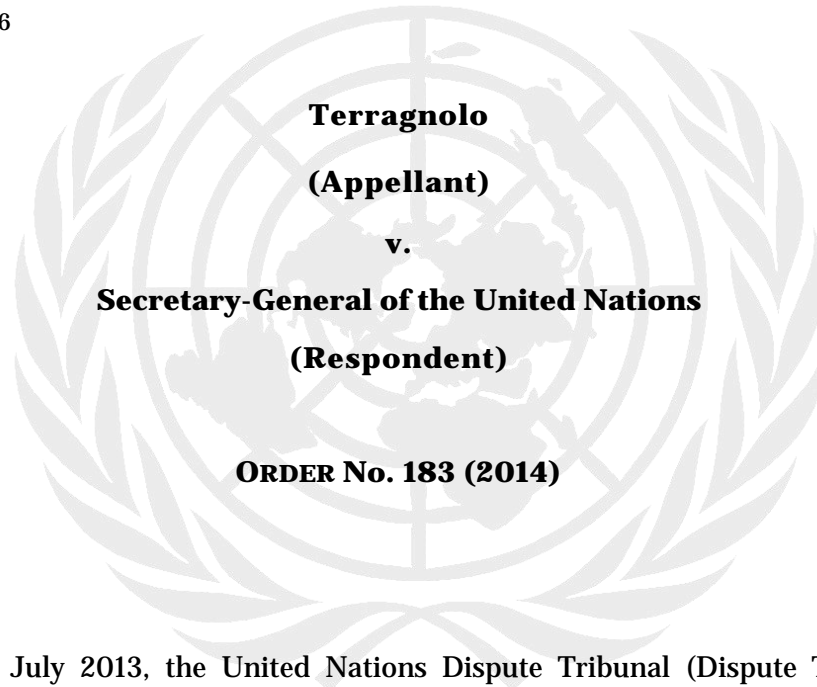




# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

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Case No. 2013-516



**Terragnolo**

**(Appellant)**

**v.**

**Secretary-General of the United Nations**

**(Respondent)**

**ORDER No. 183 (2014)**

1. On 10 July 2013, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in New York issued Judgment No. UNDT/2013/098 in the case of *Terragnolo v. Secretary-General of the United Nations*. On 15 August 2013, Mr. Julien Terragnolo appealed the Judgment to the United Nations Appeals Tribunal (Appeals Tribunal) and on 21 October 2013, the Secretary-General filed his answer.

*Procedural History*

2. On 1 November 2013, Mr. Terragnolo filed a motion for leave to file a response to the Secretary-General's answer and on 14 November 2013, the Secretary-General filed his comments upon, or opposition to, Mr. Terragnolo's motion.

3. On 16 November 2013, Mr. Terragnolo filed a motion in which he requested that, in the event his motion for leave to file a response to the answer was not granted, the Appeals Tribunal should hold an oral hearing. The Secretary-General filed his comments upon, or opposition to, that motion on 27 November 2013.

4. In Order No. 168 (2014), issued 17 January 2014, this Tribunal denied both of these motions.

*Pending Motion to Submit New Evidence*

4. On 3 May 2014, Mr. Terragnolo filed a motion for submission of new documentary evidence, Annex Nos. 9-13, and on 14 May 2014, the Secretary-General filed his comments upon, or opposition to, the motion.

5. The documents Mr. Terragnolo seeks to submit into evidence are:

(Annex 9) an email dated 11 April 2014, from the President of the United Nations Staff Union to Secretariat staff, forwarding the four other annexes;

(Annex 10) an informational memorandum dated 8 April 2014 from the Chief Executive Officer (CEO) of the United Nations Joint Staff Pension Fund (Pension Fund) to the Secretaries of the Pension Committees;

(Annex 11) draft Pension Fund recruitment and selection policy, dated April 2014;

(Annex 12) draft Secretary-General's Bulletin entitled "Authority of the [Pension Fund] in matters relating to human resources management", dated 1 June 2014; and

(Annex 13) a letter from the Assistant Secretary-General, Office of Human Resources Management, dated April 2014, to Secretariat staff appointed to the Pension Fund.

6. Mr. Terragnolo contends that the new documents:

show that the Respondent [Secretary-General] has been agreeing with the Appellant's [sic] since way before he initiated formal proceedings on: (i) the autonomy of the Pension Fund from the Secretariat's internal policies, to the explicit exclusion of ST/AI/2010/3 from governing its staff selection system, and (ii) the correct specifications of vacancy announcements.

Mr. Terragnolo notes that the alternative to admitting the new evidence "would be to ... revise Judgment UNDT/2013/[0]98 under article 29 of its Rules of Procedure, however this might amount to abuse of process in presence of a parallel appeal". (Footnote omitted.)

7. The Secretary-General opposes Mr. Terragnolo's motion on several grounds. Initially, he argues that the documents submitted by Mr. Terragnolo are not likely to establish facts that are relevant to the pending appeal, which focuses on whether the Dispute Tribunal erred in applying ST/AI/2010/3 to the selection of a staff member for the Post in the Pension Fund, as these documents were newly created in 2014 and, thus,

do not pertain to the 2000 Memorandum of Understanding entered into between the Organization and the Pension Fund. Further, the Secretary-General notes that two of the documents are merely drafts that have not been finalized or signed. Finally, the Secretary-General argues that, contrary to Mr. Terragnolo's contention, these documents do not show that his counsel made dishonest comments to the Dispute Tribunal regarding the applicability of ST/AI/2010/3 to staff selection for the Pension Fund.

8. Article 2(5) of the Appeals Tribunal Statute provides that the Appeals Tribunal may receive additional evidence in exceptional circumstances, if it is in the interest of justice and the efficient and expeditious resolution of the proceedings. The documents Mr. Terragnolo seeks to admit into evidence are not documents that would assist this Tribunal in reaching an efficient and expeditious resolution of the appeal. In light of this, it cannot be said that exceptional circumstances exist to receive these documents or that their admission into evidence is required in the interest of justice.

9. All of the new documents proffered by Mr. Terragnolo were created in 2014, as the Secretary-General notes. Thus, they would not assist this Tribunal in determining whether the UNDT correctly or erroneously concluded that ST/AI/2010/3 applied to Mr. Terragnolo's 2010 candidacy or consideration for the G-7 Post with the Pension Fund. Moreover, as the Secretary-General further notes, two of the proffered documents are merely drafts, which have not been finalized. Thus, Mr. Terragnolo's motion should be denied.

IT IS HEREBY ORDERED THAT Mr. Terragnolo's motion for submission of new evidence IS DENIED.

Original and Authoritative Version: English

Dated 22<sup>nd</sup> day of May 2014 in Los Angeles,  
United States.

*(Signed)*  
Judge Rosalyn Chapman  
Duty Judge

Entered in the Register on this 22<sup>nd</sup> day of  
May 2014 in New York, United States.

*(Signed)*  
Weicheng Lin, Registrar