



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2015-871

Kalashnik (Appellant)

v.

Secretary-General of the United Nations (Respondent)

ORDER No. 255 (2016)

1. On 18 September 2015, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York issued Judgment on Receivability No. UNDT/2015/087, in the case of *Kalashnik v. Secretary-General of the United Nations*.
2. On 30 November 2015, Mr. Andrew Kalashnik filed a timely appeal.¹ On 29 January 2016, the Secretary-General filed an answer to Mr. Kalashnik's appeal.
3. On 29 January 2016, Mr. Kalashnik filed a motion for leave to introduce Dispute Tribunal Judgment No. UNDT/2015/125, in the case of *Wilson v. Secretary-General of the United Nations (Wilson Judgment)*, as part of his appeal. He asserts that the reasoning in the *Wilson Judgment* validates his arguments and shows that the UNDT's reasoning in his case was inconsistent with the *Wilson Judgment*.
4. On 1 February 2016, Mr. Kalashnik filed another motion seeking leave to file comments on the Respondent's answer. According to him, the answer contains "multiple contradictions, mischaracterizations, and/or misrepresentations".
5. On 12 February 2016, the Secretary-General filed observations objecting to both of Mr. Kalashnik's motions.
6. Under Article 2(5) of our Statute and Article 10(1) of our Rules of Procedure (Rules), the Appeals Tribunal may receive additional evidence from a party "[i]n exceptional circumstances" "if that is in the interest of justice and the efficient and expeditious resolution of the proceedings" and if "the Appeals Tribunal determines that the facts

¹ Order No. 242 (2015), dated 19 November 2015, gave Mr. Kalashnik an extension of time to 30 November 2015, to file an appeal.

are likely to be established with such additional documentary evidence”. The *Wilson* Judgment, however, like any other UNDT judgment, is not “evidence” within the meaning of these provisions; thus, Mr. Kalashnik’s motion is denied. Of course, if a party requests, the Appeals Tribunal has discretion to take judicial notice of relevant judicial opinions.

7. Under the Appeals Tribunal Statute, Mr. Kalashnik is not entitled to file a response to the answer to his appeal. However, Article 31(1) of the Rules and Section II.A.3 of Practice Direction No. 1 allow the Appeals Tribunal to permit a party to file additional pleadings after the filing of the answer if there are exceptional circumstances for doing so.² However, Mr. Kalashnik has not demonstrated the existence of exceptional circumstances; he merely seeks to express his disagreement with the statements made by the Secretary-General in his answer.³ Thus, Mr. Kalashnik’s motion for leave to file a response to the answer is also denied.

IT IS HEREBY ORDERED that Mr. Kalashnik’s motions **ARE DENIED**.

IT IS ALSO ORDERED that the Registrar shall not include the motions and annexes thereto, as well as the Respondent’s comments thereon, in the case file.

Original and Authoritative Version: English

Dated this 22nd day of March 2016 in
New York, United States.

Entered in the Register on this 22nd day
of March 2016 in New York, United States.

(Signed)
Judge Rosalyn Chapman, President

(Signed)
Weicheng Lin, Registrar

² *Wu v. Secretary-General of the United Nations*, Order No. 225 (2015).

³ *Musleh v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Order No. 226 (2015).