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

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Case No. 2016-953

**Bagot (Appellant)**

**v.**

**Commissioner-General  
of the United Nations Relief and Works Agency  
for Palestine Refugees in the Near East (Respondent)**

**ORDER No. 272 (2016)**

1. On 18 July 2016, Mr. Christopher Bagot, a former staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (Agency or UNRWA), filed an appeal against Judgment No. UNRWA/DT/2016/017 rendered by the Dispute Tribunal of UNRWA, in which the Dispute Tribunal of UNRWA dismissed Mr. Bagot's challenge of the Agency's decision to terminate his appointment for misconduct.
2. On 16 September 2016, the Commissioner-General of UNRWA (Commissioner-General) filed his answer, in which he maintains that the UNRWA Dispute Tribunal did not err in fact, law or procedure, and that it did not exceed, or failed to exercise, its jurisdiction or competence. The Commissioner-General requests that the Appeals Tribunal dismiss Mr. Bagot's appeal.
3. In the alternative, the Commissioner-General argues that the UNRWA Dispute Tribunal failed to consider certain facts of the present case or draw a proper conclusion from its own fact findings. Further, in the alternative, he contends that the UNRWA Dispute Tribunal erred in applying a purely subjective test to the question of whether there was sexual harassment, and that its reasoning represented a departure from the Appeals Tribunal's jurisprudence in sexual harassment cases.
4. On 25 October 2016, Mr. Bagot filed a motion "for finding irreceivability of portions of the answer". Mr. Bagot states that the Commissioner-General's answer includes a disguised cross-appeal. In his view, the portions of the answer that constitute cross-appeal should be stricken as irreceivable, because allowing them to remain in the answer would deprive him of his right to reply to the cross-appeal. However, to order Mr. Bagot to answer the disguised cross-appeal would delay the proceedings and result in additional costs to him.

5. On 4 November 2016, the Commissioner-General filed comments on Mr. Bagot's motion, seeking the leave of this Tribunal to "withdraw and/or strike off the record" paragraphs 30-39 of his answer. The Commissioner-General acknowledges that some of those paragraphs "are in the nature of a cross-appeal which could have the unintended consequences of depriving [Mr. Bagot of] an opportunity to reply".

6. Also on 4 November 2016, the Commissioner-General filed a motion for waiver of time limit and for leave to file a cross-appeal. He explains that, due to "an oversight on the part of counsel for the Respondent", the Respondent's answer included alternative arguments which should have been filed separately as a cross-appeal. The Commissioner-General maintains that to permit him now to file a cross-appeal would not occasion prejudice to Mr. Bagot as it would not unduly delay the disposition of the case, and it would be in the interest of justice for all the issues to be properly ventilated. The Commissioner-General requests that he "be granted seven days from the date of the Order granting such leave to file a formal cross-appeal".

7. Under Article 9(4) of the Rules of Procedure of the Appeals Tribunal, a respondent may file a cross-appeal "within 60 days of notification of the appeal". Article 7(3) of the Appeals Tribunal Statute provides that "[t]he Appeals Tribunal may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases".

8. I note that the Registry notified the Agency of Mr. Bagot's appeal on 25 July 2016. The Commissioner-General had thereafter 60 days, i.e., by 23 September 2016, to file a cross-appeal. On 16 September 2016, he filed a timeous answer, which was forwarded to Mr. Bagot on the same day. The parties agree that the Respondent's answer includes submissions in the nature of a cross-appeal. The Commissioner-General requests the waiver of the time limit so as to allow him to amend his answer by withdrawing paragraphs 30-39 therefrom and file these paragraphs in the form of a cross-appeal within seven days from the date of an order from this Tribunal.

9. I am satisfied that the exceptional circumstances in this case warrant the waiver of the time limit and the grant of a limited period of time as requested so that the Commissioner-General can correct an oversight, amend his answer and file a cross-appeal. This will ensure that all issues that the Commissioner-General wishes to address in respect of the impugned Judgment are adequately litigated in a proper format and that Mr. Bagot's

right to answer the cross-appeal is fully respected. I do not think that this waiver of the time limit will prejudice Mr. Bagot's rights or significantly delay the disposition of this case.

**IT IS HEREBY ORDERED** that the Commissioner-General's request to amend his answer and his motion for waiver of time limit and leave to file a cross-appeal are **GRANTED**. The Commissioner-General shall file his amended answer and cross-appeal by **18 November 2016 (New York time)**. Mr. Bagot shall file an answer to the cross-appeal, if any, within 60 days of notification of the cross-appeal.

Original and Authoritative Version: English

Dated this 11<sup>th</sup> day of November 2016  
in Port of Spain, Trinidad & Tobago.

Entered in the Register on this 11<sup>th</sup> day  
of November 2016 in New York, United States.

*(Signed)*  
Judge Deborah Thomas-Felix,  
President

*(Signed)*  
Weicheng Lin, Registrar