



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2016-948

Tsoneva (Applicant)

v.

Secretary-General of the United Nations (Respondent)

Order No. 275 (2017)

1. On 3 May 2016, the United Nations Dispute Tribunal in Geneva issued Judgment No. UNDT/2016/049 in the case of *Tsoneva v. Secretary-General of the United Nations*. The Secretary-General of the United Nations filed his appeal against the Judgment on 5 July 2016, and Ms. Valentina Tsvetkova Tsoneva filed her answer on 26 July 2016. That same day, Ms. Tsoneva also filed a “Motion for Confidentiality”, in which she seeks leave to file annexes 2 to 4 to the answer *ex parte*.

2. In support of her motion, Ms. Tsoneva contends that “[t]he documents are [c]onfidential by ... nature” and that “[a]ny violation of this confidentiality will affect the professional future of other staff members who may face retaliation if not protected by the [Appeals] Tribunal”. While titled “Motion for Confidentiality”, Ms. Tsoneva also contends that the subject documents contain new evidence which she seeks to introduce pursuant to Article 10 of the Appeals Tribunal Rules of Procedure to establish additional facts that occurred after the issuance of the UNDT Judgment and that will serve as evidence for “past and current moral damages”.

3. Pursuant to Article 10(1) of the Appeals Tribunal’s Rules of Procedure, a party may seek to submit to the Appeals Tribunal, with an appeal or an answer, documentary evidence ... in addition to that contained in the written record. In exceptional circumstances and where the Appeals Tribunal determines that the facts are likely to be established with such additional documentary evidence, it may receive the additional evidence from the party.

4. 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. Article 10(1) of the Appeals Tribunal Rules of Procedure provides:

A party may seek to submit to the Appeals Tribunal, with an appeal or an answer, documentary evidence, including written testimony, in addition to that contained in the written record. In exceptional circumstances and where the Appeals Tribunal determines that the facts are likely to be established with such additional documentary evidence, it may receive the additional evidence from a party. On its own volition, the Tribunal may order the production of evidence if it is in the interest of justice and the efficient and expeditious resolution of the case, provided that the Appeals Tribunal shall not receive additional written evidence if it was known to the party seeking to submit the evidence and should have been presented to the Dispute Tribunal.

5. In the present case, the new documents which Ms. Tsoneva seeks to introduce as evidence for the “past and current moral damages” were created after the issuance of the UNDT Judgment. Since the proffered evidence postdates the UNDT Judgment and Ms. Tsoneva is not seeking additional compensation, its introduction would not assist this Tribunal in determining whether the UNDT erred in determining the award of compensation based on the record before it.

6. For the foregoing reasons, I find that in the present case, no exceptional circumstances exist warranting the admission of these documents into evidence in the interest of justice.

IT IS HEREBY ORDERED THAT Ms. Tsoneva’s motion is denied. The Registrar is instructed to redact the references to annexes 2 to 4 in Ms. Tsoneva’s answer form and to remove annexes 2 to 4 to the answer before transmitting it to the Secretary-General.

Original and Authoritative Version: English

Dated this 11th day of January 2017
in Port of Spain, Trinidad & Tobago.

(Signed)
Judge Deborah Thomas-Felix,
President

Entered in the Register on this 11th day of
January 2017 in New York, United States.

(Signed)
Weicheng Lin, Registrar