



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2018-1147

**Clemente
(Appellant)**

v.

**Secretary General of the International Civil Aviation Organization
(Respondent)**

Order No. 322 (2018)

1. On 6 November 2017, the Secretary General of the International Civil Aviation Organization (ICAO) issued a decision to accept the unanimous recommendation of the ICAO Advisory Joint Appeals Board (AJAB) that the appeal filed by Ms. Marie Teresa Clemente be rejected in its entirety. Ms. Clemente appealed the ICAO Secretary General's decision to the Appeals Tribunal on 1 February 2018. The ICAO Secretary General filed an answer on 3 April 2018.

2. On 8 April 2018, Ms. Clemente filed a motion for "clarification of facts not addressed by the ICAO Secretary General nor by the ICAO AJAB". On 13 April 2018, the ICAO Secretary General filed a response, requesting that the Appeals Tribunal deny Ms. Clemente's motion, or alternatively that the Appeals Tribunal permit her to file additional pleadings in response to Ms. Clemente's motion.

3. The Rules of Procedure of the Appeals Tribunal (Rules) provide for the parties to file appeals, answers, cross-appeals and answers to cross-appeals. They do not provide for an appellant to file a response to an answer. Nevertheless, other pleadings may be allowed under Article 31(1) of the Rules as well as Practice Direction No. 1, which pertains to the filing of documents. Under Section II.A.3 of Practice Direction No. 1, an appellant may make "[a] motion requesting the permission of the Appeals Tribunal to file a pleading after the answer to the appeal ..." and the Appeals Tribunal may grant such a motion "if there are exceptional circumstances justifying the motion".

4. This Tribunal finds that there are no “exceptional circumstances” justifying the granting of Ms. Clemente’s motion, which essentially amounts to a motion for leave to file comments on the Respondent’s answer. Ms. Clemente, in essence, merely reiterates or supplements the arguments already made in her appeal, without demonstrating in her motion the existence of said exceptional circumstances. Thus, her motion should be denied.

IT IS HEREBY ORDERED that Ms. Clemente’s motion for “clarification of facts not addressed by the ICAO Secretary General nor by the ICAO AJAB” **IS DENIED.**

Original and Authoritative Version: English

Dated this 30th day of May 2018
in London, United Kingdom.

(Signed)
Richard Lussick
Presiding Judge

Entered in the Register on this 30th day of
May 2018 in New York, United States.

(Signed)
Weicheng Lin, Registrar