



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2017-1091

Delaunay

(Appellant)

v.

Registrar of the International Court of Justice

(Respondent)

Order No. 330 (2018)

1. On 29 June 2017, Ms. Nathalie Isabelle Eliane Dutertre-Delaunay filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) against the Registrar of the International Court of Justice (ICJ Registrar and ICJ, respectively). In her appeal, Ms. Delaunay requested pecuniary damages in the amount of USD 52,988 plus moral damages and costs for having been unlawfully enrolled in, and having paid contributions to, the United Nations Joint Staff Pension Fund (Pension Fund) during her employment with the ICJ from 1 May 2009 until 31 December 2015.

2. In Order No. 301 (2017) dated 27 October 2017, the Appeals Tribunal considered that the appropriate solution at that point was for Ms. Delaunay to file a request with the Pension Fund. The Pension Fund was invited to consider two options including the following “(ii) the Pension Fund may consider that Ms. Delaunay’s participation was unlawful *ab initio* and restitute the entirety of the contributions paid by both Ms. Delaunay and the ICJ in which case Ms. Delaunay could claim the sum corresponding to the employer’s contributions from the ICJ”. The Appeals Tribunal ordered that the matter against the ICJ Registrar be stayed, pending the outcome of the Pension Fund’s decision, if any.

3. On 24 November 2017, the Pension Fund informed the Appeals Tribunal Registry that it had received an appeal from Ms. Delaunay the previous day, which would be submitted to the Standing Committee of the United Nations Joint Staff Pension Board

(Pension Board) for consideration at its following meeting in July 2018 during the 65th session of the Pension Board. On 30 November 2017, Ms. Delaunay also notified the Appeals Tribunal Registry of her appeal with the Pension Fund.

4. By letter dated 24 July 2018, the ICJ Deputy-Registrar informed the Appeals Tribunal Registrar that the Pension Fund had communicated its decision to choose option (ii) as contained in Order No. 301 (2017) to Ms. Delaunay on 3 July 2018 and had agreed, together with the ICJ, on an arrangement allowing the ICJ to transfer an amount of USD 72,849.96 to Ms. Delaunay. The ICJ Deputy-Registrar added that the ICJ, having obtained Ms. Delaunay's concurrence, had instructed its bank on 20 July 2018 to transfer the equivalent in Euros of the above-mentioned amount into Ms. Delaunay's bank account.

5. By e-mail dated 10 August 2018, the Appeals Tribunal Registry notified Ms. Delaunay that in view of the 24 July 2018 letter, her case against the ICJ Registrar would be closed administratively.

6. By e-mail dated 13 August 2018, Ms. Delaunay informed the Appeals Tribunal Registry that she does not consider the matter to be resolved as she had asked for compensation which would also cover the "two years and a half during which [she] was unable to make the amount that she was due grow".¹ Ms. Delaunay further expressed her understanding that all her claims would now be adjudicated.

7. In accordance with Article 31 of the Appeals Tribunal Rules of Procedure, "[a]ll matters that are not expressly provided for in the rules of procedure shall be dealt with by decision of the Appeals Tribunal on the particular case, by virtue of the powers conferred on it by article 6 of its statute".

8. Having reviewed the original appeal and Ms. Delaunay's communications with the Appeals Tribunal Registry, we consider that further clarification is required as to which claims contained in her original appeal against the ICJ Registrar Ms. Delaunay now seeks to further pursue. Moreover, the Appeals Tribunal requires additional information on the agreement between the ICJ and the Pension Fund, specifically as to

¹ Translation provided by the Appeals Tribunal Registry.

how the above-referenced option (ii) was implemented and whether any interest was paid.

IT IS HEREBY ORDERED that Ms. Delaunay is to provide, within 20 days of the issuance of this Order in a brief not exceeding 10 pages, clarification as to which claims contained in her original appeal against the ICJ Registrar she seeks to pursue and to produce any other relevant documents, including the decision of the Standing Committee of the Pension Board, if any. The ICJ Registrar is further ordered to produce the document, if any, containing the agreement between the Pension Fund and the ICJ on the transfer of USD 72,849.96 to Ms. Delaunay. The ICJ Registrar will be invited to provide comments on Ms. Delaunay's submission, if any, within an additional 20 days of receipt of her brief.

Original and Authoritative Version: English

Dated 17th day of August 2018
in Hamburg, Germany.

(Signed)
Judge Sabine Knierim, Presiding

Entered in the Register on this 17th day of
August 2018 in New York, United States.

(Signed)
Weicheng Lin, Registrar