



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case Nos. 2020-1438, 2020-1447, 2020-1448, 2020-1449, 2020-1450, 2020-1470, 2020-1471, 2020-1472, 2020-1473, 2020-1474, 2020-1475 & 2020-1476

Abd Al-Shakour *et al.*

Andres *et al.*

Angelova *et al.*

Andreeva *et al.*

Bozic *et al.*,

Aksioutine *et al.*

Aligula *et al.*

Alsaqqaf *et al.*

Avognon *et al.*

Bettighoffer *et al.*

Correia Reis *et al.*

Doedens *et al.*

(Appellants)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 386 (2020)

1. The United Nations Dispute Tribunal (UNDT) in Nairobi has issued 19 Judgments relating to the Administration's decision to implement a post adjustment multiplier resulting in a pay cut with regard to the United Nations staff members based in Geneva.

2. On 28 August 2020, the Appellants, through the Office of Staff Legal Assistance (OSLA), filed a consolidated appeal against Judgment Nos. 2020/106 (Abd Al-Shakour *et al.*), 2020/107 (Cardenas Fisher *et al.*) and 2020/133 (Abd Al-Shakour *et al.*). This appeal

was registered as Case No. 2020-1438 *Abd Al-Skahour et al.*, and was transmitted to the Respondent on 3 September 2020.

3. On 8 September 2020, four appeals were filed against Judgment Nos. 2020/117 and 2020/131 (*Andres et al.*), 2020/118 and 2020/130 (*Angelova et al.*), 2020/122 and 2020/132 (*Andreeva et al.*), 2020/114, 2020/115 and 2020/129/Corr. 1 (*Bozic et al.*). They were transmitted to the Respondent on 10 September 2020.

4. On 7 October 2020, the Secretary-General filed a motion for submission of a consolidated answer, a time limit extension to file the answer and a page limit increase for the answer in respect of the appeals already filed as well as any future appeals relating to the same matter. The Respondent stated that, the 19 judgments issued by the same UNDT Judge used almost exactly the same words and reasoning in the considerations and conclusions, and that it was in the interest of judicial efficiency to allow the Respondent to file the same consolidated answer in all related appeals, and to grant the Respondent a short extension of time until 1 December 2020 to submit his answer. Further, the Respondent requested an increase in page limit to 30 pages so that he could address all the appeals and complex legal issues in the consolidated answer brief.

5. On 13 October 2020, OSLA filed comments objecting to the motion. OSLA argued that OSLA's task was more onerous than that of the Respondent's and yet OSLA managed to file within the prescribed time limit and page limit. To allow the Respondent twice the page limit when addressing the same issues in the same judgment would not be consistent with the principle of equality of arms.

6. On 16 October 2020, OSLA filed the last set of appeals against UNDT Judgment Nos. 2020/154 (*Aksioutine et al.*), 2020/153 (*Aligula et al.*), 2020/152 (*Alsaqqaf et al.*), 2020/151 (*Avognon et al.*), 2020/150 (*Bettighofer et al.*), 2020/149 (*Correia Reis et al.*) and 2020/148 (*Doedens et al.*).

7. Pursuant to Article 18bis, subsection 1, of the Appeals Tribunal Rules of Procedure (Rules), “[t]he President may, at any time, either on a motion of a party or on his or her own volition, issue any order which appears to be appropriate for the fair and expeditious management of the case and to do justice to the parties”.

8. Article 7(3) of the Statute of this Tribunal 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”. Article 30 of our Rules of Procedure allows this Tribunal to shorten or extend a time limit “when the interests of justice so require”.

9. Article 8(2)(a) of the Rules limits the length of an appeal brief to 15 pages; Article 9(2)(a) of the Rules sets out the same page limit for an answer. Article 14 of the Rules stipulates that “provided that the waiver does not affect the substance of the case before the Appeals Tribunal, the President may waive the requirements of any article of the rules of procedure dealing with written proceedings”.

10. In his motion, the Secretary-General first requests to be allowed to file a consolidated answer to all present and future appeals concerning the Geneva post adjustment multiplier. He then argues that he needs not only an extension of the time limit (until 1 December 2020) but also of the page limit (30 instead of 15) to be able to file such a consolidated answer.

11. The alleged necessity for an extension of time limit seems to derive solely from the Secretary-General’s wish to file a consolidated answer to all appeals. However, this wish cannot constitute exceptional circumstances to extend the time limit for an answer to the appeals received on 3 and 10 September 2020. The Secretary-General has not explained, and I cannot see, why it should not be possible for him to file answers to the appeals within the prescribed time limit.

12. However, as the Secretary-General filed his motion on 7 October 2020, and this order is issued only today, I feel it appropriate, in the interest of justice, to grant an extension of time limit until 15 November 2020 for an answer in all five appeals.

13. As to the requested extension of the page limit, I cannot see any exceptional circumstances either. Insofar as the necessity derives from the Secretary-General’s wish to file a consolidated answer he can avoid it by filing individual answers. Insofar as he claims that the appeal raises difficult legal issues, I note that the Appellants, who did not succeed before the UNDT, were able to state their grounds of appeal within the prescribed page limit. It should thus be possible, in the interest of justice and fairness, that the Secretary-General also respects the page limit.

14. Regarding the request to file a consolidated answer to the appeals, it seems that the Secretary-General filed this motion mainly to support his other claims for an extension of time limit and page limit. At present, the appeals have not been consolidated. Consequently, it is necessary for the Secretary-General to file a separate answer to each appeal. He is, of course, free to file either identical or individualized answers. This Tribunal will examine and decide, at a later stage, whether and to what extent the appeals can be (further) consolidated.

IT IS HEREBY ORDERED that the motion **IS GRANTED in part** and the Secretary-General is to file his answers to the five appeals on or before 15 November 2020. All other requests are **DENIED**.

Original and Authoritative Version: English

Dated 23rd day of October 2020
in Hamburg, Germany.

(Signed)
Judge Sabine Knierim,
President

Entered in the Register on this 26th day of
October 2020 in New York, United States.

(Signed)
Weicheng Lin, Registrar