



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2020-1492

Andrea Barbato
(Appellant/Respondent on Cross-Appeal)

v.

**Secretary-General of the
International Maritime Organization**
(Respondent/Appellant on Cross-Appeal)

ORDER No. 411 (2021)

1. Andrea Barbato (Mr. Barbato) is a former staff member of the International Maritime Organization (IMO). On 7 February 2019, Mr. Barbato filed a complaint with the Internal Oversight and Ethics Office (IOEO) over allegations of prohibited conduct by the then Director of the Administrative Division of the IMO. Following an investigation conducted by an external service provider, which concluded there was insufficient evidence to substantiate the allegations of the complaint, the Head of the IOEO closed the case and accordingly informed Mr. Barbato on 30 May 2019 (the Contested Decision).

2. Mr. Barbato appealed the Contested Decision with the Staff Appeals Board (SAB) of the IMO on 8 August 2019. On 10 July 2020, the SAB, following a review of the evidence and merits of the case, issued a decision that the appeal should be partially granted and some remedies provided, based on the conclusions detailed in its decision. Further, on 8 September 2020, following a Joint Request for Reconsideration, SAB decided that it was “not possible nor advisable for [it] to consider the remaining remedies requested by [Mr. Barbato]”.

3. Pursuant to Order No. 394 (2020), Mr. Barbato filed an appeal with the United Nations Appeals Tribunal (Appeals Tribunal) on 22 January 2021. The Secretary-General of the IMO filed his answer and cross-appeal on 29 March 2021. The cross-appeal was transmitted to Mr. Barbato on 30 March for a 60-day response.

4. On 22 May 2021, Alex P. Haines (Mr. Haines), who serves as Mr. Barbato's counsel, filed a request for suspension, waiver or extension of the time limit to file an answer to the Secretary-General's cross-appeal. He requests a suspension of the deadline or, in the alternative, a six (6) week extension. Mr. Haines presents two grounds for this request: first, relating to the difficult and exceptional circumstances faced by Mr. Barbato at this time due to his health, and second, the parties are also currently in the process of negotiating a global settlement in which the present controversy and Mr. Barbato's other claims would be resolved.

5. 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".

6. Mr. Barbato included a medical report along with his request to the Tribunal. Although written in Italian, the Appeals Tribunal could gather from the 29 April 2021 medical evidence, annexed to the motion, that Mr. Barbato had a condition which appears to be an indication of a very serious health problem. There also seems to have been a recommendation to undergo a biopsy. This evidence, together with Mr. Barbato's submissions regarding the circumstances that prevent him from filing a timely answer, justify granting Mr. Barbato's request for an extension of time, in accordance with the principles of exceptional circumstances and interests of justice.

IT IS HEREBY ORDERED that Mr. Barbato's request is **GRANTED**. Mr. Barbato is to file his answer to the cross-appeal on or by 7 July 2021.

Original and Authoritative Version: English

Dated this 26th day of May 2021
in Juiz de Fora, Brazil.

(Signed)
Judge Martha Halfeld,
President

Entered in the Register on this 26th day
of May 2021 in New York, United States.

(Signed)
Weicheng Lin, Registrar