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# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

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Case No. 2021-1550

**Mohammad Al Othman**

**(Appellant)**

**v.**

**Commissioner-General**

**of the United Nations Relief and Works Agency for**

**Palestine Refugees in the Near East**

**(Respondent)**

**ORDER No. 430 (2021)**

1. On 29 December 2020, the Dispute Tribunal of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA DT and UNRWA or Agency, respectively) issued Judgment No. UNRWA/DT/2020/073 in the case of *Al Othman v. Commissioner-General of the UNRWA*, dismissing Mr. Mohammad Al Othman's application that challenged the Administration's decision to impose on him the disciplinary measure of summary dismissal.
2. On 21 April 2021, Mr. Al Othman appealed the UNRWA DT Judgment to the United Nations Appeals Tribunal (Appeals Tribunal or UNAT), having received the Arabic translation of the judgment on 21 February 2021. On 2 July 2021, the Commissioner-General filed his answer.
3. On 4 August 2021, Mr. Al Othman submitted a motion for leave to file additional pleadings before the Appeals Tribunal. On 13 September 2021, the Commissioner-General filed his observations, in which he does not oppose the Appellant's filing of additional pleadings.

4. 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 comments on an answer. Nevertheless, other pleadings may be allowed under Article 31(1) of the Rules as well as Practice Direction No. 1. 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”.

5. The UNAT has consistently held that, where an additional pleading merely consists of supplementary arguments to those already submitted in an appeal or answer, there are no “exceptional circumstances’ which would allow the admission of the additional argument”.<sup>1</sup>

6. In the present motion, what Mr. Al Othman seeks is to comment on the Respondent’s request that the Appeals Tribunal consider him as having abused the proceedings before it, and consequently charge him costs in the amount of USD 9,600. Mr. Al Othman claims that this is the first time that the Respondent has raised this matter, but he did not have an opportunity to comment upon that plea.

7. There is usually no need for a party to address such a matter, even if it is raised for the first time on appeal, since the Respondent’s argument is that the abuse of proceedings is before this Appeals Tribunal and not before the UNRWA DT. The Respondent is therefore right in his assertion that the gist of his request is: “by filing the appeal, the Appellant abused the appeals process”. Accordingly, the Appeals Tribunal will determine on the appeal and eventually on the Respondent’s argument of abuse of process in its future judgment. This is not a case of extraordinary circumstance so as to allow any further pleadings before this Tribunal, as referred to by the applicable legal framework.

8. Nonetheless, as highlighted by the Respondent, he does not oppose the Appellant’s request for an opportunity to address the claim for costs.

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<sup>1</sup> *McCloskey v. Secretary-General of the United Nations*, UNAT Order No. 173 (2014), para. 6. See also *Nouinou v. Secretary-General of the United Nations*, UNAT Order No. 339 Corr. (2019), para. 6; *Leonid Dolgopolov v. Secretary-General of the United Nations*, UNAT Order No. 396 (2021).

**IT IS HEREBY ORDERED** that Mr. Al Othman's motion seeking leave to file additional pleadings **IS GRANTED**. He shall file his additional pleadings limited to the claim for costs no later than 24 November 2021.

Original and Authoritative Version: English

Dated this 10<sup>th</sup> day of November 2021  
in Juiz de Fora, Brazil.

*(Signed)*  
Judge Martha Halfeld,  
President

Entered in the Register on this 10<sup>th</sup> day  
of November 2021 in New York, United States.

*(Signed)*  
Weicheng Lin, Registrar