



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2021-1610

Emma Reilly

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 433 (2021)

1. On 30 July 2021, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Geneva issued Judgment No. UNDT/2021/093 in the case of *Reilly v. Secretary-General of the United Nations* disposing of Ms. Emma Reilly's application contesting “[o]ngoing workplace harassment based on protected activity for reporting and objecting to wrongdoing by management’, including the decision to conclude an investigation of harassment only with managerial actions; and ... ‘[v]iolation of staff member privacy rights and defamation of character’, including the related decision to state that her claims were found unsubstantiated in a press release”.¹

2. The UNDT partially granted the application and remanded the case back to the fact-finding panel for the sole purpose of interviewing the former Chief, Human Resources, Office of the High Commissioner of Human Rights. The UNDT also granted Ms. Reilly compensation for moral damages in the amount of USD 3,000. The UNDT rejected all other claims and remedies.

3. On 28 September 2021, counsel for Ms. Reilly filed an appeal on Ms. Reilly's behalf against Judgment No. UNDT/2021/093 before the United Nations Appeals Tribunal (UNAT or Appeals Tribunal). That same day, he also filed a motion seeking leave to file additional pleadings, which counsel requested, should not be shared with his client. In support of his motion, counsel explained that before the UNDT, evidence had been

¹ *Reilly v. Secretary-General of the United Nations*, Judgment No. UNDT/2021/093, para. 1.

disclosed “for counsel’s eyes only” meaning that while counsel was permitted to view the documents, he was not permitted to retain a copy. Ms. Reilly was not present at the time of the hearing when the document was considered, and the UNDT ordered that she should not be informed of the contents of the document nor discussions that had taken place during that part of the hearing.

4. On 25 October 2021, UNAT issued Order No. 429 (2021) denying the motion on grounds that counsel had no standing to file a submission on behalf of his client without his client’s consent to the content of the filing. UNAT ordered that counsel refile one consolidated appeal brief, by 8 November 2021 COB (New York time) accessible to his client, which should address how this particular issue impacts the argument on the evidence and procedure before the UNDT and counsel’s capacity to represent his client given Ms. Reilly’s inability to know or be completely aware of the contents of the relevant evidence and arguments pertaining to that evidence.

5. On 8 November 2021, counsel for Ms. Reilly filed a consolidated appeal which exceeded the prescribed page limit. The UNAT Registry accordingly advised that the appeal failed to comply with the formal requirements and that counsel should file a motion seeking leave to extend the page limit. On 15 November 2021, counsel filed a “Motion to extend page limit for appeal” requesting UNAT to allow him to exceed the 15-page limit on appeal briefs in order to file a 17-page brief on the dual basis that the appeal needs to address two distinct administrative decisions with different facts and legal arguments as well as a novel issue regarding disclosure.

6. On 26 November 2021, the Secretary-General filed his comments asking that in case the Motion be granted, he likewise be granted to submit a longer brief.

7. Article 8(2)(a) of the Rules of Procedure of the Appeals Tribunal (Rules) limits the length of appellate briefs to 15 pages; Article 9(2)(a) sets out the same page limit for answers. 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”.

8. The Appeals Tribunal grants the motion to extend the page limit on counsel's appeals brief to permit the filing of a 17-page brief on the basis that the extension is warranted given the complex nature of the legal issues in the appeal. If the Secretary General requires a corresponding extension to the page limit (ie to 17 pages) that is also peremptorily granted. If either party requires an extension beyond the 17-page limit, then they would be required to file further motions to do so.

IT IS HEREBY ORDERED that the motion is **GRANTED**.

Original and Authoritative Version: English

Dated this 6th day of December 2021
in Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
President

Entered in the Register on this 6th day of
December 2021 in New York, United States.

(Signed)
Weicheng Lin, Registrar