



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2021-1584

Alejandro Izurieta-Canova

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 434 (2021)

1. On 28 June 2021, the United Nations Dispute Tribunal (UNDT) in Geneva issued Judgment No. UNDT/2021/074 in the case of *Izurieta-Canova v. Secretary-General of the United Nations*, in which it rejected Mr. Alejandro Izurieta-Canova's application challenging the cancellation of Job Opening No. 75470, to which he applied.
2. On 21 July 2021, Mr. Izurieta-Canova appealed the UNDT Judgment to the United Nations Appeals Tribunal (Appeals Tribunal). On 24 September 2021, the Secretary-General filed an answer.
3. On 8 October 2021, Mr. Izurieta-Canova filed a motion to strike and to seek leave to file additional pleadings before the Appeals Tribunal in order to rebut the arguments that the Secretary-General put forward in his answer. He requests that paragraphs 22-33 and 44 in the Secretary-General's answer be stricken because they amount to introduction of new arguments, new rules of law and the General Assembly resolutions, and reiteration of many arguments already before the UNDT, none of which was examined by the UNDT or was the subject of the present appeal. Alternatively, Mr. Izurieta-Canova requests that the Appeals Tribunal permit him to file a reply to the Secretary-General's answer, which, in his opinion, is essentially a cross-appeal in disguise.
4. On 1 November 2021, the Secretary-General filed a response objecting to the motion. In his view, Mr. Izurieta-Canova has confused the roles of the Appellant and the Respondent. The answer that he has filed as the Respondent is within the confines of what

is permitted in a submission in response to an appeal. A respondent does not have to meet the standards for an appeal and may repeat arguments. The Secretary-General maintains that none of the submissions in his answer should be struck, and that the Appellant should not be allowed an additional opportunity to respond to the arguments in his answer.

5. 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”.

6. 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”.¹ In his motion, the Appellant has failed to establish how the putative reply to the Respondent's Answer that he is seeking to submit would not merely consist of supplementary arguments to his Appeal. Accordingly, the motion for additional pleadings is without merit.

IT IS HEREBY ORDERED that Mr. Izurieta-Canova’s motion to strike and to seek leave to file additional pleadings **IS DENIED**.

Original and Authoritative Version: English

Dated this 22nd day of December 2021
in Juiz de Fora, Brazil.

(Signed)
Judge Martha Halfeld,
President

Entered in the Register on this 22nd day
of December 2021 in New York, United States.

(Signed)
Weicheng Lin, Registrar

¹ UNAT Order No. 173 (2014) (McCloskey), para. 6. See also UNAT Order No. 339 Corr. (2019) (Nouinou), para. 6.