



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2021-1560

Elmira Ela Banaj

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 444 (2022)

1. On 26 March 2021, the United Nations Dispute Tribunal (UNDT) in Geneva issued Judgment No. UNDT/2021/030 in the case of *Banaj v. Secretary-General of the United Nations*, dismissing Ms. Banaj's application challenging a decision of the United Nations Office on Drugs and Crime (UNODC) to temporarily reassign her functions as Head of UNODC in Albania. On 25 May 2021, Ms. Banaj (Appellant) appealed the UNDT Judgment to the United Nations Appeals Tribunal (Appeals Tribunal). On 27 July 2021, the Secretary-General (Respondent) filed his answer.

2. On 17 August 2021, the Appellant submitted a motion for submission of additional documentary evidence, namely, the new Terms of Reference (ToRs) she had received from the United Nations Development Programme (UNDP) on 19 July 2021, and the cover e-mail transmitting these ToRs to her.

3. On 20 September 2021, Judge Murphy issued Order No. 424 (2021), granting the Appellant's motion for submission of additional documentary evidence, and directing the parties to file any additional submissions regarding the new evidence.

4. The Appellant filed additional submissions on 24 September 2021, to which she attached a document titled "Working Arrangement between the United Nations Development Programme (UNDP) and the United Nations Office on Drugs and Crime (UNODC)", effective 1 January 2004 (UNDP-UNODC Working Arrangement), in

additional to the ToRs and the cover e-mail. On 4 October 2021, the Secretary-General filed his additional submissions.

5. In preparing for this case, I have noted the Secretary-General's request in paragraph 16, Section II. B, of his additional submissions. I consider that the UNDP-UNODC Working Arrangement referred to by the Appellant, although strictly beyond the terms of the Order of Judge Murphy in Order No. 424 (2021)), should be considered on the appeal. That is because the Secretary-General has expressly acknowledged this overstepping by the Appellant, has not opposed its use and indeed has already invoked the document in his own additional submissions.

6. In these circumstances, I will grant the Respondent's request but compliance with the following directions must be strictly adhered to if the case is to remain for consideration in the upcoming March (Spring) Session of the Tribunal.

IT IS HEREBY ORDERED that the Respondent may have the period of five days from the date of this Order to file and serve any new submissions relating to that document. The Appellant may then have the period of five days of receiving the Respondent's new submissions to file and serve her response to the Secretary-General's further submissions. The pleadings will then be closed at the end of the 10-day period.

Original and Authoritative Version: English

Dated this 9th day of February 2022 in
Auckland, New Zealand.

(Signed)
Judge Graeme Colgan,
Presiding

Entered in the Register on this 9th day of
February 2022 in New York, United States.

(Signed)
Weicheng Lin,
Registrar