



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2021-1580

Carmelo Franco
(Respondent/Applicant)

v.

Secretary-General of the United Nations
(Appellant/Respondent)

ORDER No. 460 (2022)

1. On 17 May 2021, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Geneva issued Judgment No. UNDT/2021/054 in the matter of *Franco v. Secretary-General of the United Nations*.
2. On 16 July 2021, the Secretary-General appealed the above Judgment, registered as Case No. UNAT-2021-1580. No answer was filed by Mr. Carmelo Franco, which would have been due on 17 September 2021.
3. On 24 May 2022, Counsel for Mr. Franco filed a request for suspension, waiver or extension of time limit to file an answer, stating that he had “no visibility or access” to Case No. 2021-1580 among others from 13 August 2021 until 24 May 2022. Notably, due to the introduction of the new CCMS system he had no access to existing and old cases in CCMS, because they did not migrate into the new system. The confusion created by the non-migration of the existing cases to the new CCMS system thus removed an opportunity to correct the error in not identifying the e-mail of 19 July 2021 16:29 from eFiling-DoNotReply@un.org as communicating an appeal by the Secretary-General. It was only upon receipt of Order No. 458 (2022) that the Counsel was alerted to the existence of an appeal by the Secretary-General of Judgment No. UNDT/2021/054. At that point, he still did not have access to Case No. 2021-1580 in the CCMS system. Counsel for Mr. Franco requested such access be granted at 17:11 on 23 May 2022 and the access was granted at 4:51 am Geneva time on 24 May 2022.

4. Article 7(1)(c) of the Appeals Tribunal Statute (Statute) provides that an appeal must be filed within 60 calendar days of the receipt of the judgment of the Dispute Tribunal. However, under Article 7(3) of the Statute, the 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. In the same vein, Article 30 of the Appeals Tribunal Rules of Procedure (Rules) also allows this Tribunal to shorten or extend a time limit “when the interests of justice so require”.

5. The Appeals Tribunal has consistently held that it “has been strictly enforcing, and will continue to strictly enforce, the various time limits”.¹ However, it will greatly assist the Appeals Tribunal in its deliberations to receive submissions from both parties in any given case. That said, having regard to the specific circumstances of the present case as well as that the requested waiver will have no impact on the scheduling of its hearing by the Appeals Tribunal and it will not prejudice the Secretary-General’s rights, I am satisfied that it is in the interests of justice to exceptionally grant Mr. Franco’s request for a waiver of the time limit to file his answer, and order that his answer is due no later than 1 June 2022.

IT IS HEREBY ORDERED that Mr. Franco’s request is **GRANTED**. Mr. Franco’s answer to the Secretary-General’s appeal (Case No. 2021-1580) is due no later than 1 June 2022.

Original and Authoritative Version: English

Dated this 26th day of May 2022
in Athens, Greece.

(Signed)
Judge Dimitrios Raikos
Presiding

Entered in the Register on this 26th day
of May 2022 in New York, United States.

(Signed)
Weicheng Lin
Registrar

¹ *Clemente v. Secretary General of the International Civil Aviation Organization*, Judgment No. 2018-UNAT-857, para. 27; *Samuel Thambiah v. Secretary-General of the United Nations*, Judgment No. 2013-UNAT-385, para. 31.