



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2022-1666

Elena Korotaeva
(Appellant)
v.
Secretary-General
of the World Meteorological Organization
(Respondent)

ORDER No. 461 (2022)

1. On 22 December 2021, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in Geneva issued Judgment No. UNDT/2021/158 in the matter of *Elena Korotaeva (Appellant) v. the Secretary-General of the World Meteorological Organization (WMO)* (Respondent) in which the UNDT dismissed an application contesting the decision not to pay Ms. Korotaeva termination indemnities upon separation from service due to abolition of post.
2. On 15 February 2022, Ms. Korotaeva filed an appeal against the UNDT Judgment with the United Nations Appeals Tribunal (Appeals Tribunal). On 7 March 2022, the Secretary-General of the WMO filed his answer.
3. On 15 March 2022, Ms. Korotaeva filed a motion for leave to have additional pleadings admitted before the Appeals Tribunal. She wishes to file a response to the Respondent's answer since the Respondent acknowledges in his answer for the first time that he "inadvertently submitted to the UNDT" an "erroneous version of Staff Regulations and Rules for 2020" when the applicable WMO rules were those from 2019 and yet argues that the outcome would have been the same even if the 2019 WMO rules were applied in the impugned Judgment. Since these are new claims, Ms. Korotaeva requests the Appeals Tribunal to allow her to file an additional pleading to respond to these new claims raised by the Respondent. On 21 March 2022, the Secretary-General of the WMO filed his observations submitting that Ms. Korotaeva's motion should be rejected. He argues

that she failed to explain how the application of the 2019 WMO rules would have affected the outcome of the impugned Judgment and therefore her request to submit supplemental arguments should be rejected for not meeting a “exceptional circumstances” requirement for the submission of additional pleadings.

4. In accordance with Article 31(1) of UNAT’s Rules and Section II.A.3 of UNAT’s Practice Direction No. 1, UNAT may grant the motion if there are exceptional circumstances for the party seeking to file additional pleadings. Thus, in the motion, parties must demonstrate exceptional circumstances for needing to file additional pleadings and attach to the motion the additional pleading the party seeks to submit. The UNAT President or Duty Judge may issue an order granting or denying the motion or the panel of Judges assigned to the case may address the motion at the time it renders its judgment.

5. The Appeals Tribunal finds there are exceptional circumstances justifying the motion. The Respondent has admitted to a new fact in its Answer to the Appeal that may be relevant and material to the issues in the appeal, namely the interpretation of the applicable WMO Staff Rule. The Appellant has demonstrated how this would affect her submissions regarding the connection to the right to termination indemnity and the receipt of retirement benefits. The Appellant must have an opportunity to adequately address and respond to this new fact.

6. The Appeals Tribunal grants leave to the Appellant to file additional pleadings within 10 days of the issuance of this Order.

IT IS HEREBY ORDERED that Ms. Korotaeva’s motion seeking leave to file additional pleadings **IS GRANTED**.

Original and Authoritative Version: English

Dated this 6th day of June 2022
in Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
Judge

Entered in the Register on this 6th day
of June 2022 in New York, United States.

(Signed)
Weicheng Lin,
Registrar