



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2022-1746

Yassir Haroun

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 499 (2022)

1. The United Nations Dispute Tribunal (UNDT) in Nairobi issued two orders, Order No. 157 (NBI/2022) on 1 November 2022 and Order No. 158 (NBI/2022) on 4 November 2022 in the case of *Haroun v. Secretary-General of the United Nations*, whereby, first, Mr. Haroun was granted a very short period of time to file amended pleadings after having engaged counsel to act for him and, second, declining an oral hearing on those pleadings.

2. On 5 November 2022, Mr. Yassir Haroun filed an appeal of the above orders with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal), which was registered as Case No. 2022-1746. On 9 November 2022, Mr. Haroun filed with the UNAT a motion for interim measures. In the motion, he requests the Appeals Tribunal to stay the proceedings before UNDT pending decision of his appeal.

3. Events in the UNDT overtook Mr. Haroun's wish to challenge these interlocutory Orders and to have his substantive proceedings before the Dispute Tribunal stayed. On 17 November 2022, the UNDT issued its substantive Judgment in Mr. Haroun's proceedings, dismissing his claims as not receivable¹. Mr. Haroun has rights of appeal against that Judgment.

¹ *Haroun v. Secretary-General of the United Nations*, Judgment No. UNDT/2022/124.

4. On 2 December 2022, the Secretary-General filed his comments on the stay motion.

5. Article 9(4) of the UNAT Statute provides that “[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal”. These are cumulative criteria that must be established before the Appeals Tribunal can grant temporary relief.

6. The Appellant seeks an Order “stopping the [UNDT] proceedings pending the hearing and determination of the appeal...”. He does not, however, specify what remains for hearing and decision in and by the UNDT, given that the Dispute Tribunal has now issued its Judgment and the Appellant has an extant appeal filed against that Judgment which is yet to be set for hearing and decision by the Appeals Tribunal.

7. It will be open to the Appellant, in his appeal to this Tribunal, to challenge the interlocutory decisions and Orders made by the UNDT, as well as its substantive conclusions. If these are found to have been issued *ultra vires* by the Dispute Tribunal, erroneous in law, manifestly erroneous in fact, or if the Appellant is able to establish any of the other grounds available to him as an appellant, remand of his case to the UNDT for re-examination is possible.

8. The Appellant has not identified any irreparable harm that will now be done to his case, and it is difficult to conceive of any in the present situation, following the rejection of his proceedings by the Dispute Tribunal. Any harm will, very arguably, be repairable on appeal. Even if this were not a necessary constituent under Article 9(4), any interim relief sought by him would not meet the second statutory test of maintaining consistency with the UNDT’s Judgment. The order sought by the Appellant would be to the opposite effect, that is it would bring about an inconsistency with the UNDT’s Judgment.

9. The Motion is not “moot” as the Respondent describes it, in the sense of being only of academic or theoretical interest: the issues sought to be preserved for argument can still be advanced, but on the appeal proper. Rather, events have overtaken the immediate concerns of the Appellant. To now grant the interim measures would, in effect, be to allow

those aspects of his appeal and, thereby potentially, the appeal itself although by an erroneous collateral process amounting to a summary judgment.

10. For these reasons, the Motion must fail and is refused.

IT IS HEREBY ORDERED that Mr. Haroun’s “Motion for Interim Measures” pending proceedings is **DENIED**.

Original and Authoritative Version: English

Decision dated this 13th day of December 2022
in Auckland, New Zealand.

(Signed)
Judge Graeme Colgan,
President

Order published and entered in the Register on this
13th day of December 2022 in New York, United States.

(Signed)
Juliet Johnson,
Registrar