



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2023-1841

Ousmane Tamba Dia

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

ORDER No. 530 (2023)

1. On 12 June 2023, the United Nations Dispute Tribunal (Dispute Tribunal or UNDT) in New York rendered Judgment No. UNDT/2023/051 in the case of *Dia v. Secretary-General of the United Nations* (impugned Judgment), in which the UNDT denied Mr. Ousmane Dia's application, which contested the Administration's determination that he was not eligible to participate in the Organization's After-Service Health Insurance plan (ASHI).
2. On 11 August 2023 at 11:59pm, Mr. Dia wrote to the e-mail address of the Registry of the United Nations Appeals Tribunal (Appeals Tribunal or UNAT) and filed an appeal form only. The Registry replied and instructed Mr. Dia to file a complete appeal, to create an account for e-filing these documents, and to ensure that the deadline for the appeal was met. Mr. Dia responded that the deadline had passed on 11 August 2023 at 11:59pm.
3. On 14 August 2023, Mr. Dia filed a request for a suspension of the time limit to file his appeal on the grounds that the UNDT case management folder on his case is missing two key documents that he needs in order to perfect his appeal. Mr. Dia states that he is missing: (1) instructions to the respondent to respond to his submissions (including a motion for production of documents) and (2) a notice to him informing him that further submissions would not be accepted.
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, and in exceptional cases, to suspend or waive the deadlines for a limited period of time. Article 30 of the Appeals Tribunal Rules of Procedure (Rules) also allows the President of the Tribunal to make such an order if it is required in the interests of justice.

5. In *Shehadeh*,¹ we denied as untimely an appeal filed four hours after the deadline and where no request for an extension of time was made. By contrast, in *Sergio Baltazar Arvizu Trevino*,² the UNAT granted an extension of time when the appellant filed a request *prior to* the expiration of the appeal deadline and was also undergoing medical treatment. The circumstances of this application is most similar to that in *Asghar*,³ where the Appeals Tribunal exceptionally granted a time extension to allow the appellant the opportunity to fully present her arguments where she had filed the appeal form on time but not the other documents as required by Article 8 of the Rules, including the appeal brief and annexes. The Appeals Tribunal also granted an extension in similar circumstances in *Zong*.⁴

6. In the present case, Mr. Dia sent an e-mail to the UNAT Registry at the exact deadline of the appeal (11:59pm on 11 August 2023), with only an appeal form and without a request for an extension of time, which came three days later. It is unclear whether the documents that Mr. Dia alleges are missing from his UNDT case file are key, as they do not by their description appear to be significant. Nonetheless, we acknowledge that he technically filed an appeal form by the deadline although the appeal at that time was incomplete.

7. Pursuant to Article 8 of the Rules, the appeal form “shall be accompanied by” a brief and annexes, which were not submitted. However, because enforcing deadlines may lead to harsh consequences, the Appeals Tribunal will also carefully review any request for

¹ *Shehadeh v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2016-UNAT-689, paras. 19-22.

² *Sergio Baltazar Arvizu Trevino v. Secretary-General of the United Nations*, Order No. 469 (2022), paras. 1-2, and 5.

³ *Asghar v. Secretary-General of the United Nations*, Order No. 352 (2019), paras. 2 and 6.

⁴ *Zong v. Secretary-General of the United Nations*, Order No 374 (2020), para. 2.

time limit waiver or extension, under the principles of exceptional circumstances and interests of justice.⁵

8. As Mr. Dia, who is self-represented, had filed a timely appeal, albeit incomplete, this Tribunal finds that Mr. Dia has presented an exceptional case and the interests of justice will be served if his request is granted so as to give him an opportunity to complete his appeal.

9. **IT IS HEREBY ORDERED** that Mr. Dia's request for an extension of time is **GRANTED and he must file his complete appeal no later than 10 business days from the date of this Order.**

Original and Authoritative Version: English

Decision dated this 22nd day of August 2023 in Vancouver, Canada.

(Signed)
Judge Kanwaldeep Sandhu,
President

Order published and entered in the Register on this 22nd day of August 2023 in New York, United States.

(Signed)
Juliet Johnson,
Registrar

⁵ *Ibid.*, para. 6.