



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2024-1891

Kamal Karki

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 550 (2024)

1. On 19 December 2023, the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued Judgment No. 2023-UNAT-1406 (the impugned Judgment) in the matter of *Kamal Karki v. Secretary-General of the United Nations*, in which it affirmed Judgment No. UNDT/2022/104¹ (UNDT Judgment) and found that Mr. Kamal Karki's (Mr. Karki) application was not receivable *ratione temporis*. In the impugned Judgment, the Appeals Tribunal also dismissed Mr. Karki's request for anonymity as his appeal was purely procedural and jurisdictional and did not involve any personal data which must be protected.²

2. On 14 January 2024, Mr. Karki filed an application for revision of the impugned Judgment with the Appeals Tribunal.

3. On the same date, Mr. Karki also filed a Motion for Interim Measures (Motion) with the Appeals Tribunal in relation to the impugned Judgment. Mr. Karki contends that he faced a medical crisis after the publication of his name in the impugned Judgment. In the Motion, he requests the Appeals Tribunal to anonymize his name or remove the publications until the issuance of the Judgment on his application for revision to permit him to focus on his recovery

¹ *Karki v. Secretary-General of the United Nations*, Judgment No. UNDT/2022/104.

² Please see also *AAH v. Secretary-General of the United Nations*, Order No. 492 (2022) dated 21 November 2022 in which the UNAT issued an interim order temporarily anonymizing Mr. Karki's identity until the issuance of the impugned Judgment.

and avoid triggering his health condition. In support of the Motion, Mr. Karki submits two medical reports dated 7 and 9 January 2024 related to his medical condition.

4. On 19 January 2024, the Secretary-General filed his response to the Motion. The Secretary-General submits that the Motion should be denied because, pursuant to Articles 9(4) and 11 of the Appeals Tribunal Statute (UNAT Statute), requests for interim measures may only be granted by the Appeals Tribunal at the appeals proceedings stage. As the impugned Judgment has already been issued, in which the Appeals Tribunal expressly considered and dismissed Mr. Karki's request for anonymity, the matter is *res judicata* and cannot be so readily set aside. The Secretary-General also observes that the Motion is inconsistent with both the UNDT Judgment and the impugned Judgment, which both reviewed and rejected Mr. Karki's claims for anonymity that he made on the basis of his health.

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 judgment of the Dispute Tribunal”.

6. The Appeals Tribunal has consistently held that “an interim measure of relief is subject to very strict requirements; such relief is available to protect a litigant from the likelihood of irreparable harm, who the Dispute Tribunal believes is likely to succeed at trial or the Appeals Tribunal believes is likely to succeed on appeal.”³

7. I find that, in the present case, Mr. Karki does not fulfil the conditions under Article 9(4) of the UNAT Statute.

8. First, he does not seek an interim measure for temporary relief which is consistent with the UNDT Judgment. On the contrary, he seeks the opposite, i.e., anonymization which the Dispute Tribunal and the Appeals Tribunal did not grant him – even after expressly considering his arguments that he needed anonymization due to his medical condition.⁴

³ *Nadine Kaddoura v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Order No. 409 (2021), para. 6.

⁴ *Tiwathia v. Secretary-General of the United Nations*, Order No. 103 (2012), para. 6.

9. Second, as the Secretary-General correctly submitted, requests for interim measures are only available at the appeals proceedings stage, i.e., before the UNAT has delivered its judgment.⁵ In the present case, the Appeals Tribunal has issued the impugned Judgment, including its determination on the precise issue of anonymity raised by Mr. Karki, and thus the impugned Judgment is *res judicata* as to the question of anonymity. The only way that this can be reversed, if at all, is through a revision of judgment. The Appeals Tribunal will review Mr. Karki's application for revision of the impugned Judgment at the 2024 Spring Session.

10. For these reasons, the Motion must be denied.

IT IS HEREBY ORDERED that Mr. Karki's Motion for Interim Measures is **DENIED**.

Original and Authoritative Version: English

Decision dated this 25th day of January 2024
in Beijing, China.

(Signed)
Judge Gao Xiaoli,
President

Order published and entered in the Register on this
25th day of January 2024 in New York, United States.

(Signed)
Juliet E. Johnson,
Registrar

⁵ *Rangel v. Secretary-General of the United Nations*, Judgment No. 2015-UNAT-531, para. 9.