



# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

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Case No. 2023-1884

**Jane Patience Ocoru**

**(Appellant)**

**v.**

**Secretary-General of the United Nations**

**(Respondent)**

**Order No. 555 (2024)**

1. On 2 October 2023, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi issued Judgment No. UNDT/2023/109 in the case of *Ocoru v. Secretary-General of the United Nations*.

2. On 12 December 2023, Ms. Jane Patience Ocoru contacted the Registry of the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) in relation to her filing of an appeal against that Judgment. By e-mail dated 26 December 2023, the UNAT Registry instructed Ms. Ocoru to refile her appeal in accordance with the formal requirements by 8 January 2024, the end of the Appeals Tribunal's winter recess, which she did. On 9 January 2024, the UNAT Registry transmitted the appeal to the Secretary-General.

3. On 11 March 2024, the Secretary-General filed a motion seeking leave to file additional evidence. In support of his motion, the Secretary-General contends that the additional pieces of evidence he seeks to submit relate to new facts which are highly relevant to the adjudication of the appeal, and which were not available before the UNDT. The Secretary-General submits that the evidence would support his argument that Ms. Ocoru's appeal is clearly time-barred and thus not receivable *ratione temporis*. The additional pieces of evidence are three e-mails posterior to the Judgment addressed by the UNDT and UNAT Registry to Ms. Ocoru which, the Secretary-General maintains, demonstrate that the UNDT Judgment was communicated to Ms. Ocoru on 2 October 2023; that Ms. Ocoru's first attempt at filing an appeal was on

12 December 2023, 11 days after the appeal deadline, and that Ms. Ocokoru refiled her appeal on 8 January 2024. On this basis, the appeal should be rejected in its entirety as non-receivable *ratione temporis*.

4. Also on 11 March 2024, the Secretary-General filed a motion for summary judgment. The Secretary-General asks that the Appeals Tribunal dismiss Ms. Ocokoru's appeal by summary judgment pursuant to Article 19(2) of the UNAT Rules of Procedure because her appeal is time-barred. He submits that the exception to filing on time foreseen in Article 7(3) of the UNAT Statute is not applicable in the instant case since Ms. Ocokoru has failed to request that the appeal deadline be suspended or waived prior to filing her appeal.

5. On 21 March 2024, Ms. Ocokoru filed a response to the Secretary-General's motion for summary judgment.<sup>1</sup> She submits that due to issues with her e-mail address and her e-filing account, she had not received the Secretary-General's reply to her application before the UNDT. After informing the UNDT Registry on 10 October 2023 of her new e-mail account and requesting transmission of information, if any, relating to her cases, the UNDT Registry transmitted, on 12 October 2023, the UNDT Judgment to Ms. Ocokoru, and after several reminders, she was also served the Secretary-General's reply. Accordingly, the time limit for filing her appeal was 15 December 2023, and her appeal was thus timely. Ms. Ocokoru asks that the Appeals Tribunal find the appeal was filed on time given the delays and irregularities as well as "the fact that the appeal raises issues of grave violations of fundamental human rights of a woman who is crying for justice". She also asks that an investigation be conducted into the manner in which her case has been managed to rule out malice.

6. Article 2(5) of the UNAT Statute provides that in exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings. Such additional evidence shall not include evidence that was known to either party and should have been presented at the level of the Dispute Tribunal. Article 10 of the UNAT Rules of Procedure provides that the Appeals Tribunal may receive such documentary evidence in exceptional

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<sup>1</sup> Ms. Ocokoru has not filed a response to the Secretary-General's motion for leave to file additional evidence.

circumstances and where the Appeals Tribunal determines that the facts are likely to be established with such additional documentary evidence.

7. In the present case, the Secretary-General is seeking to proffer as “additional evidence” one communication between the UNDT Registry and Ms. Ocokoru and two communications between the UNAT Registry and Ms. Ocokoru. These communications are part of the trial record and appeals record, respectively, and as such are already before the Appeals Tribunal. The Secretary-General’s motion seeking leave to proffer additional evidence is thus moot.

8. Turning to the motion for summary judgment, Article 19 of the UNAT Rules of Procedure provides that summary judgments may be issued at any time, even when the Appeals Tribunal is not in session and shall be adopted by a panel of three judges.

9. In accordance with the established jurisprudence of the Appeals Tribunal as well as “with the principles of judicial economy and efficiency [...] [and] in the interest of expeditious disposal of the case”, the UNAT may choose to proceed by way of summary judgment without taking any argument or evidence from the parties. The Appeals Tribunal has previously concluded that the summary judgment procedure is a proper procedure for the Dispute Tribunal to determine that an application is not receivable.<sup>2</sup>

10. I do not find that the circumstances of the present case are such that a summary judgment is appropriate. The Secretary-General’s contention that the exception in Article 7(3) of the UNAT Statute does categorically not apply in cases where an appellant has not requested that the appeal deadline be suspended or waived prior to the filing of an appeal, is misplaced. Ms. Ocokoru raises arguments to support her request for a waiver of time to file her appeal in response to the Secretary-General’s motion for summary judgment. The Appeals Tribunal will need to consider these arguments and the Secretary-General should have an opportunity to provide his arguments in response.

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<sup>2</sup> Cf. *Ronahi Majdalawi v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2023-UNAT-1322, para. 34.

**IT IS HEREBY ORDERED** that the motion for leave to submit additional evidence is **DISMISSED AS MOOT** and the motion for summary judgment is **DENIED**.

Original and Authoritative Version: English

Dated this 8<sup>th</sup> day of April 2024  
in Beijing, China.

*(Signed)*  
Judge Gao Xiaoli,  
President

Entered in the Register on this 8<sup>th</sup> day of  
April 2024 in New York, United States.

*(Signed)*  
Juliet E. Johnson  
Registrar