



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2023-1885

Abdurrahman Turk

(Applicant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 556 (2024)

1. On 4 December 2023, the United Nations Appeals Tribunal (UNAT or Appeals Tribunal) issued Judgment No. 2023-UNAT-1395 (prior Judgment) by which it dismissed Mr. Abdurrahman Turk's appeal of Judgment No. UNDT/2022/118 that had dismissed his application contesting a decision not to renew his Fixed-Term Appointment beyond its expiration date.
2. On 21 December 2023, Mr. Turk filed an application for revision of the prior Judgment and on 15 January 2024, the Secretary-General filed comments on the application.
3. On 25 March 2024, Mr. Turk submitted a Motion for "Additional Pleadings".
4. Mr. Turk submits that his Motion is based on new evidence of the falsity of claims made by the United Nations Assistance Mission for Iraq (UNAMI) about a decision taken by the General Assembly allegedly downgrading his position. In support of his Motion, Mr. Turk annexes General Assembly resolution 76/246 on Special subjects relating to the proposed programme budget for 2022 and the Official Records of the General Assembly's 54th plenary meeting in its 76th session of 17 December 2021 (Official Records). He submits that the Secretary-General's comments of 22 April 2022 on his motion for summary judgment before the United Nations Dispute Tribunal (UNDT) stated that "[o]n 24 December 2021, the General Assembly approved the Proposed Budget, including the downward reclassification of one P-4 PAO post to P-3". Mr. Turk asserts that this is a false statement.

5. In addition, Mr. Turk claims that the UNDT has “negatively dealt” with the application he submitted on 3 March 2022 in Case No. UNDT/NBI/2022/025 in which he challenged the procedural aspects of the decision of UNAMI. In conclusion, he submits that there was no decision by the General Assembly “to downgrade [his] position under false claims”.

6. On 5 April 2024, the Secretary-General filed comments, opposing the Motion.

7. The Secretary-General submits that Mr. Turk does not, in reality, appear to be seeking to file additional pleadings. The Secretary-General argues that the Motion fails to satisfy the requirements for additional pleadings as it fails to address whether there are exceptional circumstances in the present case and also explain why additional evidence would be in the interest of justice and the efficient and expeditious resolution of the proceedings related to the application for revision.¹ The Secretary-General contends that Mr. Turk merely seeks to relitigate his case, which is *res judicata*, by attempting to submit arguments and evidence that were examined by both Tribunals.

8. Pursuant to Article 31(1) of the Appeals Tribunal’s Rules of Procedure and Section II.A.3 of the Appeals Tribunal’s Practice Direction No. 1, a motion to file an additional pleading may be granted if there are “exceptional circumstances justifying the motion”.

9. Article 2(5) of the Appeals Tribunal’s Statute reads: “In exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, including written testimony, it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings.”

10. The Appeals Tribunal has consistently held that, where an additional pleading merely consists of supplementary arguments to those already submitted in an appeal or answer, there are no “exceptional circumstances’ which would allow the admission of the additional argument”.²

¹ With regard to annexes to the Motion, the Secretary-General submits that General Assembly resolution 76/246 had been provided in Annex 9 to the Secretary-General’s answer to the appeal in the underlying case and the Official Records are not related to the adoption of that resolution and are irrelevant.

² *Kazazi v. Secretary-General of the United Nations*, UNAT Order No. 533 (2023), para. 9; *McCloskey v. Secretary-General of the United Nations*, UNAT Order No. 173 (2014), para. 6.

11. I note that in addition to seeking leave to file additional pleadings, in essence, Mr. Turk also appears to be seeking leave to file additional evidence.

12. I find that there are no exceptional circumstances present in this case to justify receipt of the additional pleadings or evidence. The additional pleadings are in essence submissions that repeat and supplement Mr. Turk's existing arguments. He does not explain what the exceptional circumstances or interests of justice are that would justify the admission of the additional pleadings or evidence. There is nothing to suggest that Mr. Turk could not have provided these submissions and/or evidence in his application for revision.

13. Therefore, I find that it is not in the interest of justice and of the efficient and expeditious resolution of the proceeding to grant the Motion.

14. For these reasons, the Motion is denied.

IT IS HEREBY ORDERED that Mr. Turk's Motion of 25 March 2024 is **DENIED**.

Original and Authoritative Version: English

Decision dated this 12th day of April 2024
in Beijing, China.

(Signed)
Judge Gao Xiaoli,
President

Order published and entered in the Register on this
12th day of April 2024 in New York, United States.

(Signed)
Juliet E. Johnson,
Registrar