



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2024-1920

Abdurrahman Turk

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 570 (2024)

1. On 18 July 2022, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi issued Judgment No. UNDT/2022/068 (impugned Judgment) in Case No. UNDT/NBI/2022/025, *Turk v. Secretary-General of the United Nations*. In the impugned Judgment, the UNDT concluded that Mr. Turk's application was not receivable because it was duplicative of a previously-filed application from Mr. Turk in Case No. UNDT/NBI/2022/006 concerning the same contested administrative decision.
2. On 2 November 2022, the UNDT rendered Judgment No. UNDT/2022/118, dismissing Mr. Turk's application in Case No. UNDT/NBI/2022/006. Mr. Turk appealed the latter Judgment to the United Nations Appeals Tribunal (UNAT or Appeals Tribunal). The UNAT dismissed his appeal and affirmed Judgment No. UNDT/2022/118.¹
3. On 13 May 2024, Mr. Abdurrahman Turk filed an appeal of the impugned Judgment. This appeal was registered as Case No. 2024-1920.
4. On 2 July 2024, the Secretary-General filed a Motion for Summary Judgment (Motion) pursuant to Article 19(2) of the Appeals Tribunal Rules of Procedure (Rules). The Secretary-General requests the Appeals Tribunal to dismiss the appeal even when the Appeals Tribunal is not in session.

¹ *Abdurrahman Turk v. Secretary-General of the United Nations*, Judgment No. 2023-UNAT-1395.

5. The Secretary-General relies on the Appeals Tribunal's Judgment in *Heftberger*,² in which the Appeals Tribunal observed that non-receivable cases may be appropriately disposed of on summary judgment.

6. The Secretary-General argues that Mr. Turk's appeal should be dismissed on summary judgment because his appeal was filed on 13 May 2024, which is 22 months after the impugned Judgment was rendered. Accordingly, the Secretary-General submits, Mr. Turk's appeal is not receivable *ratione temporis*.

7. In the same Motion, the Secretary-General also requested that, pursuant to Article 30 of the Rules, the Appeals Tribunal suspend the deadline for the Secretary-General's answer in Case No. 2024-1920, which was due on 13 July 2024.

8. On 3 July 2024, the Motion was transmitted to Mr. Turk for his comments.

9. On 11 July 2024, Mr. Turk filed a document entitled "Request for Suspension, Waiver or Extension of Time Limit to Appeal", but which he stated was his comment to the Motion. Mr. Turk argues that the UNDT closed his second application without his permission, and that his appeal in Case No. 2024-1920 was "de facto" a request for an extension of time to file his appeal of the impugned Judgment.

10. On 15 July 2024, the Secretary-General filed his answer in Case No. 2024-1920.

11. With respect to the Secretary-General's request that the Appeals Tribunal suspend the deadline for filing the answer until the Motion was decided, this is now moot. The Secretary-General has already filed the answer.

12. The Appeals Tribunal nonetheless observes that the timing of the Secretary-General's request for a suspension of the deadline was most impractical. The Secretary-General was aware, from its citation to *Heftberger*, that the Appeals Tribunal would permit Mr. Turk an opportunity to comment on the Motion. In the very paragraph quoted by the Secretary-General, the Tribunal stated that: "the party facing the draconian

² *Rosemarie Heftberger v. Secretary General of the International Civil Aviation Organization*, Judgment No. 2023-UNAT-1312, para. 32.

finality of a summary judgment[] must be informed of the possibility and permitted to make submissions about that outcome”.³

13. The Secretary-General should also be aware that, pursuant to UNAT Practice Direction No. 1, paragraph 24, the usual time for comments on a motion is 10 days. As shown by the procedural history above, Mr. Turk’s comments were due to the Appeals Tribunal on 13 July 2024, the *same day* that the Secretary-General’s answer was due in Case No. 2024-1920. Given that both deadlines fell on a Saturday, both submissions were due on 15 July 2024.

14. Accordingly, to grant the Secretary-General’s request for a suspension of the deadline to submit an answer would have required the Appeals Tribunal to ignore Mr. Turk’s comments on the Motion. Although this issue is now moot, parties are reminded that they must file motions “as soon as reasonably possible”⁴ and should be cognizant of the Appeals Tribunal’s procedures.

15. The Secretary-General is correct that 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. As discussed, the Appeals Tribunal has previously concluded that the summary judgment procedure may be appropriate in matters of receivability.⁵

16. Nonetheless, given that the pleadings are now complete in Case No. 2024-1920, and a summary judgment procedure still requires a three-judge panel, I find that it is most practicable to decide this appeal during the Appeals Tribunal’s regular session when the panels will be convening. Upon review of the case file, I do not see any need to resolve this appeal on an urgent basis, and it will be added to the regular docket of the Appeals Tribunal.

³ *Ibid.*

⁴ UNAT Practice Direction No. 1, para. 22*bis*. We note that the Secretary-General filed the Motion 11 days before the answer was due. This is the second time in recent weeks that the Secretary-General has requested immediate action by the Appeals Tribunal without seeming to allow for the Appeals Tribunal to review a response from the opposing party. See UNAT Order No. 568 (2024), paras. 9 and 12.

⁵ *Heftberger Judgment, op. cit.*, para. 32. 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 Secretary-General's motion of 2 July 2024 is **DENIED**.

Original and Authoritative Version: English

Decision dated this 18th day of July 2024
in Beijing, China.

(Signed)
Judge Gao Xiaoli,
President

Order published and entered in the Register on this
18th day of July 2024 in New York, United States.

(Signed)
Juliet E. Johnson
Registrar