



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2024-1936

Anthony O'Mullane

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 571 (2024)

1. On 29 April 2024, the United Nations Dispute Tribunal (Dispute Tribunal) issued Judgment No. UNDT/2024/025 in the case of *O'Mullane v. Secretary-General of the United Nations*, dismissing Mr. Anthony O'Mullane's application as not receivable. Mr. Mullane had contested a decision to decline to open an investigation into his report of prohibited conduct against the United Nations Controller.
2. On 28 June 2024, Mr. O'Mullane filed an appeal of the UNDT Judgment (the appeal was registered as Case No. 2024-1936) with a 24-page appeal brief and communicated a request for leave to submit the appeal brief that was "above the maximum number of pages usually permitted". On 2 July 2024, the Registry informed Mr. O'Mullane that the appeal brief was non-compliant, that the Registry was unable to process it and that he should file a motion to increase the page limit of the appeal brief or limit the brief to 15 pages.
3. On 4 July 2024, Mr. O'Mullane filed a "Motion for Leave to File an Extended Appeal Brief".
4. He submits that the appeal is related to complex financial and budgetary matters that require explaining the budgetary process of the United Nations, including the role of the General Assembly, the Secretary-General, the Controller and the Board of Auditors,

and demonstrating how sophisticated financial mechanisms are utilized to implement the United Nations financial rules.

5. Mr. O’Mullane also states that it is necessary to address a large a number of submissions by the parties related to retaliatory measures (including their severity) and events that occurred after the submission of his report of prohibited conduct (including explaining the direct link with his report). He further submits that the “[p]olitically sensitive (...) public and recorded manifestations from the Controller”, submitted as evidence, require comprehensive explanations to be developed in full.¹

6. On 15 July 2024, the Secretary-General filed a response to the Motion, requesting the Appeals Tribunal to deny Mr. O’Mullane’s request.

7. The Secretary-General submits that it would neither be necessary nor appropriate for an appeal against the Judgment on receivability to address the merits of the case, as the UNDT did not consider them, and likewise, as the UNDT did not discuss the evidence referenced in the Motion, such evidence does not provide a basis to extend the page limit.

8. Article 8(2)(a) of the Rules of Procedure of the Appeals Tribunal (Rules) limits the length of appellate briefs to 15 pages. Article 9(2)(a) of the Rules sets out the same page limit for answers. Under Article 14 of the Rules, the President of UNAT may waive the requirements of any article of the Rules dealing with written proceedings if the waiver does not affect the substance of the case before the Appeals Tribunal.

9. I find that, under the circumstances, waiving the page limit for Mr. O’Mullane’s appeal brief would not be appropriate for a fair and expeditious management of the case and to do justice to the parties. The UNDT held that Mr. O’Mullane’s application was not receivable. The grounds he has provided in the Motion for requesting the extension of the page limit relate to the merits of his application. On appeal, the Appeals Tribunal will not be able to address the merits of his application. Therefore, it would not be appropriate to waive the page limit for the purpose of presenting such submissions. Nothing in Mr. O’Mullane’s Motion supports the suggestion that he would not be able to lay out his

¹ Mr. O’Mullane refers to Annex 4 and Annex 14 to the appeal.

arguments against the UNDT's findings on receivability in a comprehensive manner on 15 pages or less.²

IT IS HEREBY ORDERED that Mr. O'Mullane's Motion for Leave to File an Extended Appeal Brief is **DENIED**.

Mr. O'Mullane is granted 10 days to re-file the appeal brief not exceeding 15 pages.

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

² See also *Ahmed El-Sehemawi v. Secretary General of the International Civil Aviation Organization*, Order No. 454 (2022), para. 8 (case name revised in Order No. 468 (2022)).