



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

Case No. 2025-1995

**Clay Shiala Nsilu**

**(Appellant)**

**v.**

**Secretary-General of the United Nations**

**(Respondent)**

**Order No. 602 (2025)**

1. On 15 January 2025, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) issued Judgment on Receivability No. UNDT/2025/002 (impugned Judgment) in the case of *Shiala v. Secretary-General of the United Nations*, in which it dismissed the application of Mr. Clay Shiala Nsilu (Mr. Shiala), a former staff member of the United Nations Children's Fund (UNICEF), as not receivable *ratione temporis*. Mr. Shiala challenged the Administration's decision to separate him from service due to misconduct.
2. On 3 February 2025, Mr. Shiala filed an appeal of the impugned Judgment with the United Nations Appeals Tribunal (UNAT or Appeals Tribunal), which was registered as Case No. 2025-1995. On 1 April 2025, the Secretary-General filed his answer.
3. On 9 May 2025, Mr. Shiala filed a Motion for Additional Pleadings (the Motion) submitting arguments and documentation asserting that: i) at the time of his appointment, the Administration failed to transmit several documents to him; ii) the Administration also failed to respect its obligation to treat his case with confidentiality during the investigation and the disciplinary process; iii) he engaged in a protected activity; and iv) he did not have access to his professional computer and professional e-mail account during the disciplinary process and was unable to acknowledge receipt of the disciplinary sanction.
4. On 16 May 2025, the Secretary-General filed his Response to the Motion. He contended that Mr. Shiala merely repeated arguments already raised in his appeal and

improperly introduced new arguments that could have been presented before the UNDT. The Secretary-General submitted that Mr. Shiala failed to demonstrate any “exceptional circumstance” justifying the Motion. He further argued that the arguments and documentation submitted by Mr. Shiala did not demonstrate any error in the UNDT’s conclusion that his application was time-barred. Additionally, he noted that although the annexes submitted with the Motion were available when Mr. Shiala filed both his application before the UNDT and his appeal, he failed to produce them at that time.

5. Section II.A.3 of the Appeals Tribunal’s Practice Direction No. 1 provides that a motion to file an additional pleading may be granted if there are “exceptional circumstances justifying the motion”.

6. Article 2(5) of the Appeals Tribunal’s Statute states that “[i]n 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”.

7. According to well-established Appeals Tribunal jurisprudence, “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”.<sup>1</sup>

8. Furthermore, under our constant jurisprudence, “issues which were not raised before the UNDT cannot be introduced for the first time on appeal, on pain of infringement of the two-tier principle of administration of justice”.<sup>2</sup>

9. In the present case, I find that Mr. Shiala has failed to demonstrate exceptional circumstances that would warrant the admission of his additional pleadings and annexes. On the contrary, as correctly observed by the Secretary-General, I find that the additional pleadings merely repeat or seek to supplement the arguments that he made in his appeal or attempt to introduce new arguments that he failed to raise before the Dispute Tribunal.

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<sup>1</sup> *Tejbir Singh Soni v. Secretary-General of the United Nations*, Order No. 527 (2023), para. 7; *Mihai Nastase v. Secretary-General of the United Nations*, Order No. 514 (2023), para. 12.

<sup>2</sup> *Ratnanjali Venkata Koduru v. Secretary-General of the United Nations*, Order No. 418 (2021), para. 3.

10. For these reasons, the Motion is denied.

**IT IS HEREBY ORDERED** that Mr. Shiala's Motion is **DENIED**.

Original and Authoritative Version: English

Decision dated this 7<sup>th</sup> day of July 2025  
in Washington D.C., United States

*(Signed)*  
Judge Nassib G. Ziadé,  
Presiding

Order published and entered in the Register on this  
7<sup>th</sup> day of July 2025 in New York, United States.

*(Signed)*  
Juliet E. Johnson,  
Registrar