



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

ABALOS ET AL.

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Christopher Bollen and Mathis Kern

Counsel for Respondent:

Daniel Trup, Legal Counsel, WMO

Introduction

1. By Order No. 66 (NY/2021) dated 16 July 2021, the Tribunal ordered the parties to file submissions on whether *Al-Shakour* et al. 2021-UNAT-1107 is dispositive for the determination of the present case. The parties duly did so on 26 July (the Applicant), 3 August (the Respondent) and 13 August 2021 (the Applicant).

Consideration

2. After having thoroughly perused the parties' submissions in response to Order No. 66 (NY/2021), the Tribunal finds that further submissions and documentation are needed.

3. The Applicants, in essence, contend that *Al-Shakour* et al. 2021-UNAT-1107 is not dispositive of the present case because in this Judgment, the Appeals Tribunal held that the United Nations Secretary-General was bound by the decisions of the United Nations General Assembly. As a specialized United Nations agency, the World Meteorological Organization ("WMO") is, however, not bound by the decisions of the United Nations General Assembly, because WMO has "its own governing body, legal framework including rules and procedures, membership, and funding mechanisms". The Respondent has not denied this.

4. The Tribunal notes that aside from the Respondent arguing that the WMO Congress is the equivalent of the United Nations General Assembly, neither party has made any further submissions on WMO's governance structure, including as regards the roles and functions of its Congress, Executive Council and its Secretary-General, and its status towards the United Nations General Assembly. The Respondent is therefore ordered to do so and is also to provide copies of all relevant statutory documents for WMO with references to the relevant provisions therein. The Applicant will thereafter be allowed to comment thereon.

5. The Respondent, in essence, contends, in support of *Al-Shakour et al.* 2021-UNAT-1107 being dispositive of the present case, that the Secretary-General of WMO was obliged to implement the International Civil Service Commission's ("ICSC") decision concerning post adjustment. In this regard, the Respondent refers to arts. 3.3 and 12.2 of the WMO Staff Regulations and WMO staff rule 133.1. The Respondent further submits that the WMO Secretary-General had "introduced" the WMO Staff Rules, that these "were subsequently submitted to the Executive Council", and that the WMO Secretary-General had "no other authority but to adjust the post adjustment for the Organization accordingly". The Applicants object thereto, arguing that neither the WMO Congress nor the Executive Committee had approved the WMO Staff Rules, including staff rule 133.1.

6. The Tribunal notes that it is not in possession of the WMO Staff Regulations and Rules. Also, it is not clear to the Tribunal why the WMO Secretary-General would be bound by ICSC's decision on post adjustment as the only stated provision that explicitly refers to ICSC is WMO staff rule 133.1. According to the Respondent's own submissions, WMO staff rule 133.1 was promulgated by the WMO Secretary-General himself and "submitted" to the WMO Executive Council, but it does not follow from this that the WMO Congress or the Executive Council have actually adopted or otherwise endorsed WMO staff rule 133.1. The Respondent is therefore ordered to provide further submissions thereon and also to file copies of the WMO Staff Regulations and Rules, as well as any other legal document that he finds relevant for the present cases. The Applicants will thereafter be provided with the opportunity to comment thereon.

7. Subsequent to the parties' additional submissions, unless otherwise ordered, the Tribunal will decide whether *Al-Shakour et al.* 2021-UNAT-1107 and the doctrine of *stare decisis* are applicable to the present cases.

IT IS ORDERED THAT:

8. By **4:00 p.m. on Thursday, 2 September 2021**, the Respondent is to provide additional submissions on and documentation for (a) WMO's governance structure and (b) the alleged obligation of the WMO Secretary-General to implement the ICSC's decision on post adjustment, including by filing the WMO Staff Regulation and Rules;

9. By **4:00 p.m. on Monday, 13 September 2021**, the Applicants are to file their response to the Respondent's 2 September 2021 filings.

10. Unless otherwise ordered, on receipt of the latest of the aforementioned statements or at the expiration of the provided time limit, the Tribunal will adjudicate on the matter and deliver Judgment based on the documents on record.

(Signed)

Judge Joelle Adda

Dated this 17th day of August 2021