

Case No. 2017-1122

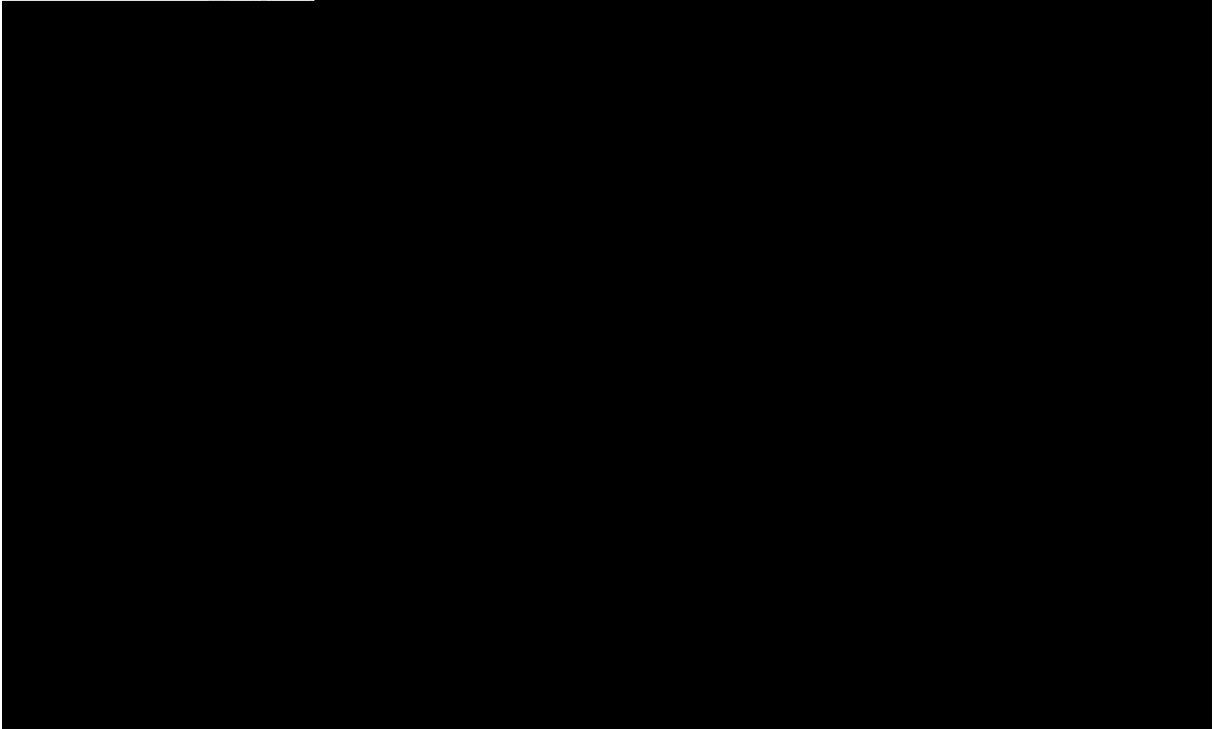
Koumoin

(Appellant)

v.

Secretary-General of the United Nations

(Respondent)



the proper relief by the Appeals Tribunal may be difficult to achieve in the absence of the Government of the United States. And in Motion No. 3, Mr. Koumoin again attaches I-797 and the direct deposit form and requests that the Appeals Tribunal dispose of his case by summary judgment, as “there is no dispute as to the material facts before UNAT”.

4. On 17 January 2018, Mr. Koumoin’s motions were transmitted to the Secretary-General for response within 10 calendar days.

5. On 29 January 2018, the Secretary-General timeously filed three separate responses, requesting that the Appeals Tribunal reject Mr. Koumoin’s three motions, as he has failed to advance any exceptional circumstances in support of his motions. Specifically, in the view of the Secretary-General, Motion No. 1 should be rejected because Mr. Koumoin’s new legal status in th

7. In Motion No. 2, Mr. Koumoin seeks joinder of the United States Government on the basis that his new resident status in the United States requires him to waive his rights, privileges and immunities as a staff member of the Organisation. The Appeals Tribunal may permit joinder in an appeal in exceptional circumstances under Article 31(1) of its Rules of Procedure, but there are no exceptional circumstances in this instance. More importantly, this Tribunal has no jurisdiction over the governments of member states and thus an order to that effect would not be competent.

8. The application for summary judgment in terms of Motion No. 3 is equally without merit and ill-conceived. It is permissible for this Tribunal to issue summary judgment in terms of Article 19(2) of our Rules of Procedure. However, summary judgment is only appropriate when there is no dispute as to the material facts of the case and a party is entitled to judgment as a matter of law.<sup>1</sup> The material facts in this appeal are wholly contested. The appeal turns on whether the UNDT was correct in its findings that there was in fact no default judgment and no mediated settlement. There is accordingly no basis at all to issue summary judgment.

9. In short, the motions are all manifestly groundless, frivolous and unreasonable. Mr. Koumoin was a senior staff member of the Organisation and ought to know better than to bring trivial and patently implausible motions of this kind. His conduct approximates a manifest abuse of the appeals process and, if repeated, will invite an appropriate costs award in terms of Article 9(2) of the Statute of the Appeals Tribunal.

IT IS HEREBY ORDERED that Mr. Koumoin's motions ARE DENIED.

Original and Authoritative Version: English

Dated this 15<sup>th</sup> day of February 2018  
in Cape Town, South Africa.

*(Signed)*  
John Murphy  
President

Entered in the Register on this 15<sup>th</sup> day of