



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2009/097

Judgment No.: UNDT/2009/002

Date: 16 July 2009

Original: English

Before: Judge Memooda Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

JENNINGS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT AND ORDER
SUSPENSION OF ACTION

Counsel for applicant:
Self-represented

Counsel for respondent:
Stephen Margetts, ALU

Notice: The format of this judgment has been modified for publication purposes in accordance with Article 26 of the Rules of Procedure of the United Nations Dispute Tribunal.

1. UPON considering the Applicant's Application dated 10 July 2009 and received on 13 July 2009, for a suspension of the implementation of the administrative decision of 28 May 2009 not to renew her fixed-term appointment,
2. AND UPON hearing the Applicant, in person, and Mr. Stephen Margetts and Ms. Josianne Muc, counsel for the Respondent,
3. AND having considered the papers and the record, together with the submissions of the parties,
4. AND UPON the following brief Findings of the Tribunal:
 - (1) On 30 June 2009, the Deputy Secretary-General granted the Applicant a suspension of action until 17 July 2009.
 - (2) The Applicant filed for a suspension of the implementation of the administrative decision not to extend her fixed-term contract beyond 17 July 2009 on the grounds that her performance evaluation (referred to as "e-PAS") for the period 20 May 2008 to 30 June 2009 has not been completed and her right of rebuttal has not been exercised.
 - (3) The Applicant having signed off the finalized e-PAS on 15 July 2009; the Applicant now seeks a suspension of the implementation of the administrative decision not to extend her fixed-term contract beyond 17 July 2009 on the grounds, inter alia, that:
 - a. she is entitled to due process and to file a rebuttal and further to have her record cleared .
 - b. that she suffers irreparable harm as a result of the bad mid-term report in that all applications for employment inside and outside require a the latest " e-PAS" document attachment.
5. AND UPON considering that under Article 2.2 of the Statute of the United Nations Dispute Tribunal and Article 13.1 of the Rules of Procedure, the following

criteria have to be satisfied for the Tribunal to make an order on an application for a suspension of a contested administrative decision that is the subject of an ongoing management evaluation:

- (1) that the decision appears prima facie to be unlawful,
- (2) in cases of particular urgency, and
- (3) where its implementation would cause irreparable damage,

6. AND UPON determining that the criteria required under Article 2.2 of the Statute of the United Nations Dispute Tribunal and Article 13 of the Rules of Procedure have not been met,

7. AND having further considered that under Staff Rule 109.7, applicable at the time of the execution of the Applicant's contract with the Respondent, fixed-terms appointments shall expire automatically and without prior notice on the expiration date specified in the letter of appointment,

8. AND having considered that the Applicant's letters of appointment, dated 20 May 2008 and 23 April 2009, stated that her appointment carried no expectancy of renewal

IT IS ORDERED THAT:

1. The Application to suspend the implementation of the contested administrative decision is rejected.

(Signed)

Judge Memooda Ebrahim-Carstens

Dated this 13th day of August 2009

Entered in the Register on this 13th day of August 2009

(Signed)

Hafida Lahiouel, Registrar, New York