



Before: Judge Rowan Downing

Registry: Geneva

Registrar: René M. Vargas M.

MARDIN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION
DURING PROCEEDINGS**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Susan Maddox, ALS/OHRM, UN Secretariat

Introduction

1. By application filed on 18 August 2015, the Applicant, a former staff member of the United Nations Disengagement Observer Force (“UNDOF”), Syria, contests the decision to terminate his indefinite appointment.
2. In his application, the Applicant requests the Tribunal to suspend the implementation of the administrative decision until the Tribunal makes a determination on the merits of the case.

Facts

3. The Applicant worked with UNDOF since 1987. Since 1995, he worked as Office Assistant/Warehouse worker, at the G-2 level, on the basis of an indefinite appointment. On 8 June 2015, the Applicant received a letter, dated 3 June 2015, informing him that due to the restructuring of UNDOF, his indefinite appointment would be terminated with a proposed effective date of 30 June 2015.
4. On 25 June 2015, the General Assembly approved the UNDOF budget for 2015/16, resulting, *inter alia*, in the abolition of 16 General Service posts at UNDOF.
5. On 26 June 2015, the Applicant filed a request for management evaluation and suspension of action of the contested decision with the Management Evaluation Unit (“MEU”). On the same day, the decision to terminate the Applicant’s appointment was suspended, pending the outcome of the management evaluation.
6. By letter dated 14 August 2015, the Under-Secretary-General for Management informed the Applicant that the Secretary-General had decided to accept the recommendation of the MEU to uphold the decision to terminate his appointment.

Contentions of the Applicant

7. The Applicant submits that he is capable of working and serving the Organization and that his country, Syria, is undergoing a very difficult situation. He further notes that he had outstanding performance evaluations throughout the years. He stresses that the relocation of the entire military component from Camp Faouar to Camp Ziouni was a wrong decision and that the opening of a new base camp in the same area of Camp Faouar implies recruitment of new staff members in the logistic warehouse. As such, the decision to terminate his appointment after so many years of service is unfair.

Consideration

8. The Tribunal recalls the scope of its competence to suspend the implementation of an administrative decision beyond the date of completion of management evaluation; art. 10.2 of its Statute reads:

At any time during the proceedings, the Dispute Tribunal may order an interim measure, which is without appeal, to provide temporary relief to either party, where the contested administrative decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

9. Pursuant to art. 10.2 of its Statute, echoed by art. 14 of its Rules of Procedure, the Tribunal does not have jurisdiction to order suspension of the decision to terminate the Applicant's appointment, since it falls under one of the exceptions in said article to the Tribunal's competence to order suspension of action.

10. As a result of the above, the Tribunal cannot consider the cumulative requirements for granting a suspension of action under art. 10.2 of its Statute, namely *prima facie* unlawfulness, urgency and irreparable damage.

11. In view of the clear lack of jurisdiction, the Tribunal decided that this part of the application would be determined summarily without service to the Respondent. The application on the merits shall otherwise proceed pursuant to the normal processes of the Tribunal.

Conclusion

12. In view of the foregoing, the application for suspension of action during proceedings is rejected.

(Signed)

Judge Rowan Downing

Dated this 19th day of August 2015

Entered in the Register on this 19th day of August 2015

(Signed)

René M. Vargas M., Registrar, Geneva