



Before: Judge Teresa Bravo
Registry: Geneva
Registrar: René M. Vargas M.

GIANOTTI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

George Irving

Counsel for Respondent:

Jérôme Blanchard, LPAS, UNOG

Introduction

1. By application filed on 10 June 2021, the Applicant, a staff member of the United Nations Economic Commission for Europe (“UNECE”), requests suspension of action, pending management evaluation, of the decision to cancel Job Opening No. 123535 (“JO 123535”), to which he applied, concerning a position of Economic Affairs Officer (P-4) in UNECE.

2. The application for suspension of action was served on the Respondent, who filed his reply on 15 June 2021.

Consideration

3. Art. 2.2 of the Tribunal’s Statute provides that the Tribunal shall be competent to suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage.

4. Pursuant to this provision, this Tribunal has consistently held that for an application for suspension of action to be successful, it must satisfy the following mandatory and cumulative conditions (see for instance *Kooshak* Order No. 80 (GVA/2020)):

- a. The Applicant requested management evaluation of the contested decision, which evaluation is ongoing;
- b. The contested decision has not yet been implemented;
- c. The application concerns an administrative decision that may properly be suspended by the Tribunal;
- d. The impugned administrative decision appears *prima facie* to be unlawful;

- e. Its implementation would cause irreparable damage; and
- f. The case is of particular urgency.

5. It is uncontested by the parties that the cancellation of JO 123535 was notified to the Applicant on 21 May 2021. A copy of this notification was annexed to the Applicant's application as annex 6. It follows that the contested decision that the Applicant seeks to suspend has been implemented.

6. Consequently, one of the above-mentioned mandatory conditions is not met in the present case and, given the cumulative nature of the legal test related to the consideration of applications for suspension of action, the Tribunal does not need to examine the remaining conditions.

Conclusion

7. In view of the foregoing, the application for suspension of action pending management evaluation is rejected.

(Signed)

Judge Teresa Bravo

Dated this 16th day of June 2021

Entered in the Register on this 16th day of June 2021

(Signed)

René M. Vargas M., Registrar, Geneva