



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

KENNY-SMITH

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Aaron Siri, Siri & Glimstad LLP
Elizabeth A. Brehm, Siri & Glimstad LLP

Counsel for Respondent:

Alister Cumming, UNICEF

Introduction

1. By application filed on 22 September 2022, the Applicant, a staff member of the United Nations Children’s Fund (“UNICEF”), requests suspension of action, pending management evaluation, of the decision to implement and enforce the COVID-19 Vaccine Mandate for all UNICEF personnel including herself, and, accordingly, to separate her from service.

2. The application for suspension of action was served on the Respondent, who filed his reply on 27 September 2022.

Consideration

3. Art. 2.2 of the Tribunal’s Statute and art. 13 of its Rules of Procedure, governing applications for suspension of action, provide in their relevant part that the Tribunal may suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage.

4. In his reply, the Respondent advised the Tribunal that, on 26 September 2022, the Applicant had been provided with the outcome of her request for management evaluation.

5. It follows from the above that the request for suspension of action has become moot and that the Tribunal does not need to examine if the three statutory requirements specified in art. 2.2 of its Statute and art. 13.1 of its Rules of Procedure, namely *prima facie* unlawfulness, urgency and irreparable damage, are met in the case at hand.

Conclusion

6. In view of the foregoing, the Tribunal **DECIDES** that the present application for suspension of action is moot and, consequently, there is nothing further for the Tribunal to adjudicate.

7. In closing, the Tribunal underlines that the Applicant retains the right to contest the administrative decision at issue pursuant to staff rule 11.4(a).

(Signed)

Judge Teresa Bravo

Dated this 28th day of September 2022

Entered in the Register on this 28th day of September 2022

(Signed)

René M. Vargas M., Registrar, Geneva