



**Before:** Judge Sun Xiangzhuang

**Registry:** Geneva

**Registrar:** René M. Vargas M.

MACNEIL

v.

REGISTRAR  
OF THE INTERNATIONAL COURT OF JUSTICE

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

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Philippe Gautier, Registrar

## **Introduction**

1. The Applicant, a staff member of the International Court of Justice (“the Court”), requests suspension of action, pending management evaluation, of the decision not to renew her temporary contract beyond 29 February 2024.
2. For the reasons set out below, the application for suspension of action is dismissed.

## **Facts**

3. The Applicant joined the Court as an intern in October 2022. She collaborated on a full-time basis until 9 January 2023 and on a part-time basis from 10 January 2023 until 11 April 2023.
4. The Applicant was granted a temporary appointment as a Team Assistant, at the GS-4 level, in the Security and General Assistance Division from 24 May 2023 to 17 November 2023.
5. On 4 July 2023, the Applicant filed allegations of sexual harassment and abuse of authority against her supervisor. An investigation was conducted and a decision on the investigation report is currently pending.
6. On 9 October 2023, the Applicant was granted a temporary appointment as Secretary to a Member of the Court until 29 December 2023, to cover the absence of a staff member on sick leave.
7. On 12 December 2023, the Applicant was granted another temporary appointment as Secretary to a second Member of the Court until 29 February 2024, to assist him during the sick leave of his secretary.
8. On 13 February 2024, the Head of the Administrative and Personnel Division sent a memorandum to the Applicant listing administrative matters to be settled given her upcoming separation at the end of that month.

9. On 27 February 2024, the Applicant filed a request for management evaluation of the decision not to renew her temporary appointment beyond 29 February 2024.

10. On 28 February 2024, the Applicant filed the present application for suspension of action.

11. The same day, the application for suspension of action was served on the Respondent instructing him “to refrain, as of [then] and for as long as the suspension of action procedure before the UNDT [was] ongoing from taking any further decision or action relating to the decision that the Applicant [sought] to suspend”.

12. The Respondent filed his reply on 4 March 2023.

13. On 29 February 2024, the Applicant’s temporary appointment was extended until 11 March 2024.

## **Consideration**

### *Receivability*

14. The issue for consideration is the receivability of the present application. In *Christensen* 2013-UNAT-335 para. 20, the United Nations Appeals Tribunal (“the Appeals Tribunal”) held that “the UNDT is competent to review its own competence or jurisdiction in accordance with Article 2(6) of its Statute” when determining the receivability of an application.

15. The Appeals Tribunal further stated that “this competence can be exercised even if the parties of the administrative authorities do not raise the issue, because it constitutes a matter of law and the Statute prevents the UNDT from receiving a case which is actually not receivable” (see *Christensen*, para. 21).

16. Considering the above, the Tribunal will proceed to review the receivability of the present application.

17. Under art. 2.2 of the Tribunal's Statute and art. 13.1 of its Rules of Procedure, the Tribunal may 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. These three requirements are cumulative. In other words, they must all be met for a suspension of action to be granted.

18. It is clear from the case record that the Applicant's temporary contract was extended until 11 March 2024. Therefore, since the contested decision, that is the decision not to extend the Applicant's temporary contract beyond 29 February 2024, has been superseded by another administrative decision, the present application for suspension of action is moot.

19. Nonetheless, the Tribunal notes that the Applicant retains the right to contest the new administrative decision if she so wishes.

### **Conclusion**

20. In view of the foregoing, the application for suspension of action pending management evaluation is dismissed.

*(Signed)*

Judge Sun Xiangzhuang

Dated this 5<sup>th</sup> day of March 2024

Entered in the Register on this 5<sup>th</sup> day of March 2024

*(Signed)*

René M. Vargas M., Registrar, Geneva