



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2024/022
Order No.: 74 (GVA/2024)
Date: 28 June 2024
Original: English

Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: René M. Vargas M.

O'REAGAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Brandon Gardner, OSLA

Counsel for Respondent:

Kong Leong Toh, UNOPS

Introduction

1. By application filed on 23 June 2024, the Applicant, a staff member of the United Nations Office for Project Services (“UNOPS”), requests suspension of action, pending management evaluation, of the decision to not renew his fixed-term appointment (“FTA”) beyond 30 June 2024 following the abolishment of his post.
2. The application for suspension of action was served on the Respondent, who filed his reply on 26 June 2024.

Facts

3. The Applicant is currently serving as a Special Adviser to the Executive Director (“ED”), UNOPS, at the D-1 level in Copenhagen. He was reassigned to this position effective 1 May 2023 following a settlement agreement, reached through mediation, by which the Applicant’s FTA was extended to 30 June 2024.
4. On a meeting dated 8 May 2024 between the Applicant and the ED, the Applicant was informed that his post was deemed unnecessary and, thus, would be abolished. As a result, the Applicant’s FTA was not to be renewed beyond its expiry on 30 June 2024.
5. On 18 June 2024, the Applicant requested management evaluation of the aforementioned non-renewal decision.
6. On 21 June 2024, the Applicant filed the instant application for suspension of action pending management evaluation.
7. On 24 June 2024, the case was assigned to the undersigned Judge and served on the Respondent.
8. On 26 June 2024, the Respondent filed his reply informing the Tribunal that a management evaluation response had already been issued, and requesting that the matter be dismissed.

Consideration

9. 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. These three requirements are cumulative. In other words, they must all be met in order for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant.

10. It follows that an application for suspension of action can only be entertained under the jurisdiction of the Dispute Tribunal when the contested decision in challenge is the subject of an **ongoing** management evaluation (see *Onana* 2010-UNAT-008, para. 19; *Igbinedion* 2011-UNAT-159, para. 20).

11. In the present case, the Applicant's management evaluation request is no longer pending. The matter has been resolved by decision dated 26 June 2024, as indicated by the Respondent in his reply.

12. Consequently, as the management evaluation in this case has been completed, one of the cumulative and mandatory conditions specified in art. 2.2 of the Tribunal's Statute is not fulfilled. The Tribunal will therefore not examine if the remaining statutory requirements have been met, as the matter now lies moot.

13. Accordingly, the Tribunal finds that it no longer has jurisdiction to rule on the present application for suspension of action.

Conclusion

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

(Signed)

Judge Sun Xiangzhuang

Dated this 28th day of June 2024

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Entered in the Register on this 28th day of June 2024

(Signed)

René M. Vargas M., Registrar, Geneva