



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2025/019

Order No.: 30 (GVA/2025)

Date: 7 April 2025

Original: English

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**Before:** Judge Sun Xiangzhuang

**Registry:** Geneva

**Registrar:** Liliana López Bello

WAGNER

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**

Manuel Calzada

**Counsel for Respondent:**

Nicole Wynn, AS/ALD/OHR/UN Secretariat

Victoria Mujunga, AS/ALD/OHR/UN Secretariat

## **Introduction**

1. By application filed on 31 March 2025, the Applicant, a staff member of the United Nations Mission in Kosovo (“UNMIK”), requests suspension of action, pending management evaluation, of the decision to temporarily reassign her to the Office of the Deputy Special Representative of the Secretary-General (“ODSRSG”) in Pristina.

2. The application for suspension of action was served on the Respondent, who filed his reply on 3 April 2025.

## **Facts**

3. The Applicant holds a fixed-term appointment (“FTA”) at the P-5 level as Special Assistant to the Special Representative of the Secretary-General (“SRSG”) of UNMIK. On 19 December 2024, she was elected President of the Field and Staff Union (“FSU”).

4. On 10 January 2025, the Applicant was informed that due to operational reasons, she would be temporarily reassigned with her post as Special Assistant to the SRSG to the Office of Community Support (“OCS”) “effective immediately” (the “first reassignment”).

5. On 23 January 2025, the Applicant responded to the reassignment letter asking the Administration to clarify the operational reasons behind the decision to reassign her, the duration of the temporary reassignment, the terms of reference of the new post, and whether she will retain her original post of Special Assistant to the SRSG.

6. On 20 February 2025, the Applicant was informed that she would be reassigned as the head of a new joint capacity in ODSRSG under the Youth and Gender Affairs, “effective immediately” (the “second reassignment”).

7. On 11 March 2025, the Applicant requested management evaluation of the two reassignment decisions made on 10 January and 20 February 2025.

8. On 25 March 2025, the Applicant received an Interoffice Memorandum formalising her temporary reassignment to the ODSRSG.

9. On 31 March 2025, the Applicant filed the instant application seeking suspension of the reassignment decision of 20 February 2025.

### **Consideration**

10. 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.

11. The Respondent claims that the contested decision was implemented effective immediately on 20 February 2025. In support, he submits the Applicant's Personnel Action Form, which shows her assignment to the ODSRSG on 20 February 2025.

12. According to the Applicant, however, the reassignment decision of 20 February 2025 was not implemented because she was not allocated any work in the ODSRSG.

13. In the Tribunal's view, however, whether or not the Applicant has been assigned tasks in her new function is irrelevant to the analysis of the implementation of the decision.

14. The fact remains that the reassignment was implemented on 20 February 2025, as showcased by the Applicant's contemporaneous Personnel Action.

15. Even if the Tribunal were to consider the 25 March 2025 Memorandum as the official implementation of the Applicant's reassignment, because it was only then that she received proper details about her new role, the application for

suspension of action would still be not receivable having been filed on 31 March 2025.

16. As the Respondent correctly pointed out, art. 2.2 of the Tribunal's Statute prevents it from passing judgment on an application seeking suspension of a decision that has already been implemented. An application for suspension of action serves only to preserve the *status quo*, not reverse it.

17. As it follows, the application for suspension of action is not receivable.

### **Conclusion**

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

*(Signed)*

Judge Sun Xiangzhuang

Dated this 7<sup>th</sup> day of April 2025

Entered in the Register on this 7<sup>th</sup> day of April 2025

*(Signed)*

Liliana López Bello, Registrar, Geneva