



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2025/021

Order No.: 32 (GVA/2025)

Date: 8 April 2025

Original: English

Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: Liliana López Bello

ROESKE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Monika Bileris

Counsel for Respondent:

Rebecca Britnell, UNHCR

Elizabeth Brown, UNHCR

Introduction

1. By application filed on 31 March 2025, the Applicant, a staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), requests suspension of action, pending management evaluation, of the decision to separate her from service on 31 March 2025 following the expiry of her fixed-term appointment (“FTA”).

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

Facts

3. The Applicant is a former Senior Policy Officer at the P-4 level in UNHCR with an FTA initially expiring on 31 December 2024. On 1 January 2025, her FTA was extended until 31 March 2025 to cover her placement on an Internal Temporary Assignment (“ITA”) in Geneva for three months.

4. By email of 19 March 2025, the Personnel Administration Associate (PAA), Global Off-boarding and Inter-agency Team, Personnel Administration Section (“PAS”), Human Resources Services Section (“HRSS”) informed the Applicant that her separation memorandum was being prepared since her last day of service was 31 March 2025.

5. By email of 20 March 2025, the PAA, PAS, HRSS provided the Applicant with her separation memorandum confirming that her FTA would expire on 31 March 2025.

6. On 31 March 2025, the Applicant was separated from UNHCR.

7. On the same day, the Applicant requested management evaluation of the decision to separate her from service and filed the present application with the Tribunal.

8. The Registry only processed the application on the following day, 1 April 2025, because the day of filing was a United Nations official holiday. On the same day, the application was served to the Respondent.

9. On 3 April 2025, the Respondent filed his reply indicating that the application for suspension of action was not receivable because the contested decision had already been implemented on 31 March 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 Applicant alleges that the decision to separate her from service was unlawful. She submits that instead of being separated, she should have been granted a five-year contract extension in line with the Policy on the Administration of Fixed-Term Appointments (UNHCR/HCP/2015/09/Rev.1). She claims that the matter is urgent as her FTA was due to expire on 31 March 2025. She further asserts that her separation would damage her reputation and result in the loss of her health insurance.

12. The Respondent submits that the application is not receivable because the contested decision has already been implemented. He alleges that the Applicant failed to come to the Tribunal or submit a request for management evaluation at the first available opportunity and has abused the process by making misrepresentations in her application.

13. The Tribunal recalls that art. 2.2 of its 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.

14. The Tribunal's jurisdiction in an application for suspension of action is, therefore, limited.

15. The Tribunal has recently ruled in Order No. 31 (GVA/2025) that such limitation refers to the date the contested decision is implemented. Therefore, if the Tribunal receives and processes an application for suspension of action before the implementation of the contested decision, assuming that the other criteria of art. 2.2 of its Statute are met, then the Tribunal can suspend said implementation. However, if the contested decision has already been implemented, there is nothing to suspend.

16. In this case, although the Applicant was informed on 19 and 20 March 2025 that her FTA would expire on 31 March 2025, she only filed the application for suspension of action on her last day in service.

17. However, since Monday, 31 March 2025, was a United Nations official holiday and thus not a working day for the Tribunal, the application was processed on Tuesday, 1 April 2025. By then, the contested decision had already been implemented, and the Applicant was no longer a staff member. It thus follows that 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 8th day of April 2025

Entered in the Register on this 8th day of April 2025

(Signed)

Liliana López Bello, Registrar, Geneva