



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2025/066

Order No.: 111 (GVA/2025)

Date: 24 September 2025

Original: English

Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: Liliana López Bello

OTAROLA SILESKY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Self-represented

Counsel for Respondent:

N/A

Introduction

1. By application filed on 17 September 2025, the Applicant, a staff member of the International Atomic Energy Agency (“IAEA”), requests suspension of action, pending management evaluation, of the decision to withdraw the offer of appointment for the position of Communications Officer at the P-4 level with the UN Resident Coordination Office in Belize (the “Position”).

2. For the reasons stated below, the Tribunal decides to dismiss the application.

Facts

3. According to the application, the Applicant is a GS-5 fixed-term staff member of IAEA. In early 2025, he applied for the Position. He was then on Special Leave Without Pay from IAEA and on an International Individual Contractor Agreement (“IICA”) with the United Nations Office for Project Services (“UNOPS”).

4. On 10 July 2025, the Applicant was selected for the Position, and he allegedly obtained approval for a secondment from the IAEA.

5. However, on 29 August 2025, he was informed that the offer of appointment was withdrawn “because of [his] status as a GS-5 staff member of IAEA, and the alleged applicability of United Nations staff rule 4.16(ii)”.

6. The Applicant was further informed that since he was a staff member at the GS-5 level and had not passed the examination for General Service staff to move to Professional category positions (“G to P”), the National Competitive Recruitment Examination (“NCRE”) or the Young Professionals Programme (“YPP”) examination, he was ineligible for appointment to the Professional category. He was advised that this applies to staff members from the United Nations Common System.

7. On 10 September 2025, the Applicant requested management evaluation of the decision to withdraw his offer of appointment for the Position.

Consideration

Receivability

8. Before entering into an examination of the application, the Tribunal first must determine the status of the Applicant and consider whether his application is receivable, pursuant to arts. 2 and 3 of its Statute.

9. Art. 2.1 of the Tribunal's Statute relevantly reads:

The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary-General as the Chief Administrative Officer of the United Nations.

10. Art. 3.1 of the Dispute Tribunal's Statute stipulates that an application under art. 2.1 of said Statute may be filed by (emphasis added):

(a) Any **staff member** of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(b) Any **former staff member** of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(c) Any person making claims in the name of an incapacitated or deceased **staff member** of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes.

11. Art. 3.2 further provides that a request for suspension of action may be filed by an individual, as provided for in para. 1 of the same article.

12. Pursuant to these rules, the status of a staff member is a necessary condition for access to the Tribunal. This interpretation has been upheld by the Appeals Tribunal, notably in *Basenko* 2011-UNAT-139.

13. In *Basenko* UNDT/2010/145 at para. 15, the Dispute Tribunal addressed the issue of the limitation of its jurisdiction in the following terms:

In Judgments UNDT/2010/098, *Gabaldon*, and UNDT/2010/142, *Roberts*, the Tribunal held that the limitation of its jurisdiction to

persons having acquired the status of staff member was the clear wish of the General Assembly. Indeed, the General Assembly, which had considered proposals to open the Tribunal to non-staff personnel, such as Interns and Type II gratis personnel (e.g., A/62/748, referred to in A/RES/63/253), opted to reject such proposals and to limit the scope of the Tribunal's statute as reflected in article 3.1. Hence, this limitation does not constitute an unintended lacuna and there is no room for a larger interpretation of the actual wording of the statute. The limitation of the scope of the Tribunal's jurisdiction has been confirmed by the United Nations Appeals Tribunal in its Judgment 2010-UNAT-008, *Onana*.

14. In the present case, there is no dispute that the Applicant did not acquire the status of a staff member of the United Nations. According to his application, the Applicant is a staff member of IAEA, which falls outside the jurisdiction of this Tribunal and is subject to the jurisdiction of the Administrative Tribunal of the International Labour Organization. Furthermore, he is not a former staff member of the United Nations either, because he was on an IICA contract with UNOPS.

15. Consequently, the Applicant has no standing before this Tribunal and his application for suspension of action must be denied on the grounds that it is not receivable *ratione personae*, pursuant to art. 3.1 of the Tribunal's Statute.

Conclusion

16. In view of the foregoing, the application for suspension of action is dismissed.

(Signed)

Judge Sun Xiangzhuang

Dated this 24th day of September 2025

Entered in the Register on this 24th day of September 2025

(Signed)

Liliana López Bello, Registrar, Geneva