



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2015/079

Order No.: 240 (NBI/2015)

Date: 21 July 2015

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

CHEMINGUI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

DIRECTIONS ORDER ON AN
APPLICATION FOR SUSPENSION OF
ACTION PURSUANT TO ARTICLE 14 OF
THE RULES OF PROCEDURE

Counsel for the Applicant:
Marisa Macleenan, OSLA

Counsel for the Respondent:
Steven Dietrich, ALS/OHRM

The Application and Procedural History

1. The Applicant is a Senior Economist at the Economic and Social Commission for Western Asia (ESCWA). He serves on a fixed term appointment, at the P5 level, on an “established” post.
2. On 21 July 2015, the Applicant filed an Application for Suspension of Action seeking an injunction against the decision to laterally reassign him as the Regional Adviser on Trade.
3. The Tribunal is informed that, as far as the Applicant is aware, ESCWA intends “to issue a memo today, 21 July, to reassign him effective immediately.”
4. The Application was filed along with a substantive merits application, which has been served on the Respondent.

Deliberations

5. Applications for suspension of action are governed by article 2.2 of the Statute of the United Nations Dispute Tribunal and articles 13 and 14 of the Tribunal’s Rules of Procedure.
6. The three statutory prerequisites contained under the above-mentioned provisions , i.e. *prima facie* unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted.
7. This remedy is not available in situations where the impugned decision has been implemented.

8. On the facts presented to the Tribunal, it appears that the impugned decision is to be effected today.

9. As the implementation of this decision is imminent, and before the expiry of the five day statutory period established for the determination of applications for suspension of action, the Tribunal - using the powers afforded to it in arts. 19 and 36 of the Rules of Procedure – is left with little choice but to suspend the impugned decision for a preliminary five days, during which time the Application can be properly heard and determined.¹

10. The decision to re-assign the Applicant is stayed until **Tuesday, 28 July 2015**.

(Signed)

Judge Nkemdilim Izuako

Dated this 21st day of July 2015

Entered in the Register on this 21st day of July 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi

¹ *Villamorán* 2011-UNAT-234.