



Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Abena Kwakye-Berko

GEBRE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**INTERIM ORDER ON AN
APPLICATION FOR SUSPENSION OF
ACTION**

Counsel for the Applicant:

Fasil Amdetsion, OSLA

Counsel for the Respondent:

ALS/OHRM

Introduction

1. The Applicant is serving as a Special Assistant at the P-3 level with the United Nations Interim Security Force in Abyei (UNISFA).
2. On 9 February 2016, he filed an Application for suspension of action pending management evaluation of the decision not to renew his six-month temporary appointment. The Chief Human Resources Officer (CHRO) of UNISFA informed the Applicant by a memorandum dated 4 February 2016 that he was to report to the Regional Service Centre in Entebbe (RSCE) on 8 February to finalize his check-out process and depart from Entebbe on 11 February 2016.
3. The Application was served on the Respondent on 10 February 2016 with a deadline of 12 February 2016 to file a Reply.

Considerations

4. Pursuant to article 2.2 of the UNDT Statute and art. 13.1 of the UNDT Rules of Procedure, the Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage. The Dispute Tribunal is mandated to consider an application for interim measures within five working days of the service of the application on the Respondent.
5. Article 19 of the UNDT Rules of Procedure provides that “[t]he Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties”. Article 36.1 of the UNDT Rules of Procedure provides that “[a]ll matters that are not expressly provided for in the rules of procedure shall be dealt with by decision of the Dispute Tribunal on the particular case, by virtue of the powers conferred on it by article 7 of its statute”.

6. In *Villamorán* 2011-UNAT-160, the United Nations Appeals Tribunal (UNAT), held that the Dispute Tribunal has the discretion to grant a suspension of action for five days where:

Where the implementation of an administrative decision is imminent, through no fault or delay on the part of the staff member, and takes place before the five days provided for under Article 13 of the Rules of Procedure of the UNDT (UNDT Rules) have elapsed, and where the UNDT is not in a position to take a decision under Article 2(2) of the UNDT Statute, i.e. because it requires further information or time to reflect on the matter [...].

7. The Tribunal is currently faced with a situation similar to that which pertained in *Villamorán*. The Applicant has been instructed to proceed to Entebbe for finalization of his check-out process and to depart from Entebbe on 11 February 2016. This means that implementation of the contested administrative decision is imminent.

8. Further, the Applicant has raised several legal issues in his submission that require a response from the Respondent. Consequently, the Tribunal is not in a position to take a decision on this Application for Suspension of Action prior to the implementation date.

9. Due to the exigencies of the circumstances outlined above and in the interests of justice, the Tribunal, pursuant to arts. 19 and 36 of the UNDT Rules of Procedure, has decided to grant the Application for Suspension of Action on an interim basis to allow the Respondent an opportunity to file his Reply and any relevant documentary evidence.

It is hereby ordered that:

10. The Application for Suspension of Action is granted on an interim basis until **Wednesday, 17 February 2016**.

11. The Respondent is to submit his Reply to the Application for Suspension of Action **by 1700 hours on Friday, 12 February 2016**.

(Signed)

Judge Vinod Boolell

Dated this 10th day of February 2016

Entered in the Register on this 10th day of February 2016

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi