



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2017/125

Order No.: 206 (NBI/2017)

Date: 5 December 2017

Original: English

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**Before:** Judge Goolam Meeran

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

KEBEDE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for the Applicant:**  
Self-represented

**Counsel for the Respondent:**  
ECA

## **Introduction**

1. On 4 December 2017, the Applicant, a G-4 level Inventory and Supply Assistant with the United Nations Economic Commission for Africa (“ECA”), in Addis Ababa, Ethiopia, filed an application for suspension of action pending management evaluation of the decision to place the report of a rebuttal panel in his official status file.

## **Considerations**

2. Applications for suspension of action are to be decided in accordance with art. 2.2 of the Statute of the Dispute Tribunal and art. 13 of the Tribunal’s Rules of Procedure. Article 2.2:

The Dispute Tribunal shall be competent to hear and pass judgement 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 decision of the Dispute Tribunal on such an application shall not be subject to appeal.

3. Article 13 of the Rules of Procedure:

1. 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.
2. The Registrar shall transmit the application to the respondent.
3. The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.

4. It is clear that the Tribunal is under a duty to transmit a copy of the suspension of action application to the Respondent and to issue a decision within five days thereof. There is no requirement, either under art. 2.2 of the Statute or art. 13 of the Rules of Procedure, for the Tribunal to await the Respondent's response before the applicant's request is considered.

5. The Tribunal considers it appropriate to remind the Applicant, as a self represented staff member, that a request for suspension of action under art. 2.2 of the Statute is predicated upon an ongoing and pending management evaluation of an administrative decision that may properly be suspended by the Tribunal. Further, the Applicant has to satisfy the three requirements of art. 13 of the Tribunal's Rules of Procedure that the decision *appears* to be *prima facie* unlawful, that the matter is of particular urgency and that the implementation of the decision would cause irreparable damage.

6. The Applicant indicates that he has not requested management evaluation of the decision he is contesting. In the circumstances his application for a suspension of action is premature. However, he may, if he still wishes to contest the matter, submit a request for a management evaluation of what he considers to be an unlawful administrative decision. He will then have satisfied one of the essential prerequisites under the Statute. Should the Applicant then submit a fresh application for a suspension of action it will be considered on its merits and without prejudice to the contents of the current request.

## **ORDER**

This application for suspension of action is refused.

*(Signed)*

Judge Goolam Meeran

Dated this 5<sup>th</sup> day of December 2017

Entered in the Register on this 5<sup>th</sup> day of December 2017

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi