



**Before:** Judge Nkemdilim Izuako

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

ELZAROV

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

**ORDER**

---

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

**Counsel for the Respondent:**  
Nicole Wynn, ALS/OHRM  
Nusrat Chagtai, ALS/OHRM

## **Introduction**

1. The Applicant is a staff member at the African Union/United Nations Hybrid Operation in Darfur (UNAMID). He is currently serving on a continuing appointment at the P-5 level as a Chief of Service, Humanitarian Affairs in El Fasher, Sudan.

2. In his application filed on 20 February 2018 with the Dispute Tribunal, the Applicant contests the decision not to select him for the position of Chief of Service, Humanitarian Affairs at the D-1 level (the contested decision).

## **Facts**

3. The Applicant has served with the Organization since his initial appointment on 21 April 2007. On 18 May 2015, the Applicant was appointed Officer-in-Charge, Protection of Civilians and Humanitarian Liaison Section, UNAMID. He later served temporarily as Chief of Service, Humanitarian Affairs on a SPA at the D-1 level. On 28 October 2016, the Applicant's fixed-term appointment was converted to a continuing appointment.

4. On 21 February 2017, the position of Chief of Service, Humanitarian Affairs at the D-1 level in UNAMID was advertised<sup>1</sup>. The Applicant applied for this position on 9 March 2017.

5. On 27 December 2017, the UNAMID Chief of Staff informed the Applicant, by telephone, that he had not been selected for the position.

6. On 28 December 2017, the Applicant filed a request for management evaluation of the contested decision.

7. By letter dated 26 February 2018, the Under-Secretary-General for Management informed the Applicant that the contested decision was upheld as it

---

<sup>1</sup> This job opening was based on a Position Specific Job Opening (PSJO) where applicants apply to a published vacancy, and after a suitability review, non-rostered candidates undergo a written assessment and competency based interview.

was considered that the Applicant received full and fair consideration in the selection process.

8. On 26 February 2018, the Applicant filed a “motion for suspension of action pending the UNDT decision” and on 1 March 2018, he filed a “motion for interim measures pending proceedings”. In both motions, the Applicant seeks suspension of the implementation of the contested decision pending proceedings.

9. On 2 March 2018, the Respondent filed a reply to the Applicant's motions.

### **Considerations**

10. Pursuant to article 10.2 of its Statute and article 14.1 of its Rules of Procedure, at any time during the proceedings, the Dispute Tribunal may order interim measures to provide temporary relief where the contested decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

11. In his application, the Applicant contests the decision not to select him for the position of Chief of Service, Humanitarian Affairs at the D-1 level which is, in fact, a decision involving an eventual appointment and, in the case of the Applicant, a promotion as his personal grade is P-5. Accordingly, the Dispute Tribunal does not have jurisdiction to grant the relief that the Applicant is seeking and the motion is therefore not receivable.

### **Conclusion**

12. In view of the foregoing, the Applicant's motion is refused.

*(Signed)*

Judge Nkemdilim Izuako

Dated this 8<sup>th</sup> day of March 2018

Entered in the Register on this 8<sup>th</sup> day of March 2018

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi