



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2020/016

Order No.: 044 (NBI/2020)

Date: 24 February 2020

Original: English

Before: Judge Rachel Sophie Sikwese

Registry: Nairobi

Registrar: Abena Kwakye-Berko

TOGNI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for the Applicant:
Daniel Trup, OSLA

Counsel for the Respondent:
Nicole Wynn, AAS/ALD/OHR
Rosangela Adamo, AAS/ALD/OHR

Background

1. On 20 February 2020, the Applicant a P-5 Chief of Logistics with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) in Bangui, the Central African Republic (CAR), filed an application before the Dispute Tribunal seeking suspension of the implementation of the decision not to renew his fixed-term appointment beyond 28 February 2020 pending management evaluation (the contested decision). The decision was taken following his placement on certified sick leave after a medical diagnosis that he was not cleared to return to Bangui.

2. In his application, the Applicant submitted that since the decision to place him on sick leave and then consequently not to renew his appointment, he has obtained medical certification from his doctor confirming that he is now fit to return to CAR. He also submitted this documentation to the Administration for review. He contends that the Administration are obligated to review his medical circumstances so that a new decision is made as to whether he can return to CAR and not simply separate him from service.

3. The Respondent filed a reply to the application on 24 February 2020. In his reply, the Respondent submits that on 17 February 2020, the Applicant provided the Division of Healthcare Management and Occupational Safety and Health (DHMOSH) with a new medical report from his treating physician stating that he is now fit to return to work in MINUSCA. DHMOSH is currently evaluating the medical report and the Applicant's fitness to work in his position in Bangui.

4. On 21 February 2020, MINUSCA informed the Respondent's Counsel that it awaits DHMOSH's review of Applicant's latest medical report and has not initiated the Applicant's separation. In light of the foregoing, the Respondent does not oppose the Applicant's request for suspension of the implementation of the contested decision pending management evaluation.

ORDER

5. The application for suspension of action of the contested decision pending management evaluation is granted.

(Signed)

Judge Rachel Sophie Sikwese

Dated this 24th day of February 2020

Entered in the Register on this 24th day of February 2020

(Signed)

Eric Muli, Legal Officer, for

Abena Kwakye-Berko, Registrar, Nairobi