



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.: UNDT/NBI/2022/065  
Order No.: 112 (NBI/2022)  
Date: 11 August 2022  
Original: English

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**Before:** Judge Margaret Tibulya

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

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v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON AN APPLICATION FOR  
SUSPENSION OF ACTION PENDING  
MANAGEMENT EVALUATION  
PURSUANT TO ART. 13 OF THE  
UNDT RULES OF PROCEDURE**

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**Counsel for the Applicant:**

Bang Dut Uguak

**Counsel for the Respondent:**

ALS/ALD/OHR, UN Secretariat

## **Introduction**

1. The Applicant is a former staff member of the United Nations Mission in South Sudan (“UNMISS”). On 29 July 2022, he filed an incomplete application via email requesting urgent relief under art. 2.2 of the Dispute Tribunal’s Statute and art. 13 of its Rules of Procedure seeking to suspend the decision by the Under-Secretary-General for Management Strategy, Policy and Compliance (“USG/DMSPC”) to impose on him the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity in accordance with staff rule 10.2(a)(viii).<sup>1</sup> The Applicant completed his application on 10 August 2022.

2. The application was served on the Respondent on 11 August 2022. The Tribunal did not require a reply.

## **Considerations**

3. Under art. 2.2 of the Dispute Tribunal’s Statute, an Applicant is required to satisfy the Tribunal that the impugned decision appears to be *prima facie* unlawful, is urgent and will cause him/her irreparable harm if implemented. All three elements of the test must be satisfied before the impugned decision can be stayed.

4. In the present case, the Applicant indicates at section I, paragraph 5 of his application that he was separated from service on 21 July 2022. Since the decision he seeks to have suspended, i.e. his separation from service, has already been implemented, it follows that the application for suspension of action pending management evaluation is not receivable.

5. The Tribunal wishes to draw the Applicant’s attention to art. 8.1(d)(ii) of the UNDT Statute should he wish to file an application on the merits.

## **ORDER**

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<sup>1</sup> Application, annex entitled “Personal and confidential”.

6. The current application for suspension of action is rejected as irreceivable.

*(Signed)*

Judge Margaret Tibulya

Dated this 11<sup>th</sup> day of August 2022

Entered in the Register on this 11<sup>th</sup> day of August 2022

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi