



Before: Judge Sean Wallace, Duty Judge

Registry: Nairobi

Registrar: Eric Muli, Officer-in-Charge

ROGER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON A MOTION FOR INTERIM
MEASURES PENDING PROCEEDINGS**

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Jacob van de Velden, DAS/ALD/OHR, UN Secretariat
Maria Romanova, DAS/ALD/OHR, UN Secretariat

Introduction

1. On 10 July 2023, the Applicant, a former Construction and Maintenance Worker at the United Nations Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”), filed an application contesting a decision of 1 May 2023 to separate him from service with compensation *in lieu* of notice and without termination indemnity.

2. On 17 August 2023, the Applicant filed a motion requesting the Dispute Tribunal to order for interim measures pending proceedings and have him reinstated in MONUSCO so that he continues to pursue Mr. Biyemba Kyambikwa Raphael, whom the Applicant accuses to have sent an email using the Applicant’s official United Nations email account, leading to the contested decision in this case.

3. On 18 August 2023, the motion was served on the Respondent, who filed his reply on 21 August 2023. The Respondent submits that the motion is not receivable and is without merit.

Considerations

4. Article 10.2 of the Dispute Tribunal’s Statute, as also reflected in art. 14 of its Rules of Procedure, provides that:

At any time during the proceedings, the Dispute Tribunal may order an interim measure, which is without appeal, to provide temporary relief to either party, where the contested administrative 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.

5. In light of the above-mentioned provisions, the Tribunal is precluded from entertaining a motion for interim measures if the subject matter of an application concerns a contested decision related to appointment, promotion, or termination.

6. Staff rule 9.6(a) provides that “termination within the meaning of the Staff Regulations and Rules is a separation from service initiated by the Secretary-General”.

7. The Applicant in this case challenges the decision to separate him from service, which falls under the category of termination in accordance with staff rule 9.6(a).

8. As such, the Applicant’s motion for interim measures is not receivable.

ORDER

9. The Applicant’s motion for interim measures is denied.

(Signed)

Judge Sean Wallace

Dated this 22nd day of August 2023

Entered in the Register on this 22nd day of August 2023

(Signed)

Eric Muli, Officer-in-Charge, Nairobi