



**Before:** Judge Sean Wallace  
**Registry:** Nairobi  
**Registrar:** René M. Vargas M., Officer-in-Charge

LIKUKELA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

AS/ALD/OHR, UN Secretariat

## **Introduction**

1. By application filed on 22 May 2024, the Applicant, a staff member of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”), requests suspension of action, pending management evaluation, of the decision of the Under-Secretary-General for Management Strategy, Policy and Compliance to impose on her 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), effective upon her receipt of the sanction letter.

2. At section V(5) of her application, the Applicant states that she first came to know about the decision on 21 May 2024.

## **Consideration**

3. Article. 2.2 of the Tribunal’s Statute provides that the Tribunal shall be competent to suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage. These three requirements are cumulative. In other words, they must all be met in order for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant.

4. Staff rules 10.3(c) and 11.2(b) stipulate:

(c) A staff member against whom disciplinary or non-disciplinary measures, pursuant to staff rule 10.2, have been imposed following the completion of a disciplinary process may submit an application challenging the imposition of such measures directly to the United Nations Dispute Tribunal, in accordance with chapter XI (Appeals) of the Staff Rules.

...

(b) A staff member wishing to formally contest an administrative decision taken pursuant to advice obtained from a duly designated technical body, as determined by the Secretary-General, or of a decision taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff

rule 10.2 (Disciplinary measures) following the completion of a disciplinary process is not required to request a management evaluation.

5. Moreover, by letter dated 23 May 2024, the Management Advice and Evaluation Section determined the Applicant's "request for a management evaluation is not receivable". Thus, there is no management evaluation pending, and art. 2.2 of the Tribunal's Statute does not apply.

6. In view of the foregoing, because this is a case of termination on disciplinary grounds where management evaluation is neither required nor pending, and the decision took effect immediately upon the Applicant's receipt of the sanction letter, the application is not receivable.

### **Conclusion**

7. The application for suspension of action pending management evaluation is rejected.

*(Signed)*

Judge Sean Wallace

Dated this 24<sup>th</sup> day of May 2024

Entered in the Register on this 24<sup>th</sup> day of May 2024

*(Signed)*

Eric Muli, Legal Officer, for René M. Vargas M., Officer-in-Charge, Nairobi