



Before: Judge Sean Wallace
Registry: Nairobi
Registrar: Wanda L. Carter

NOR

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Nisha Patel, AS/ALD/OHR, UN Secretariat
Charlene Ndirangu, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is an Assistant Security Officer on a temporary appointment with the United Nations Support Office in Somalia and the United Nations Assistance Mission in Somalia.

2. By an application filed on 23 November 2024, the Applicant requests an:

Order for suspension of the implementation of the contested retaliatory non-renewal decision during the proceedings. This includes halting the finalisation of the November 2023 recruitment process for a position allegedly linked to my current temporary assignment, pending the Tribunal's review of the case.

3. On 26 November 2024, the Respondent filed a reply submitting that the motion is not receivable. Further, the Respondent submits that should the Tribunal find the motion receivable, it lacks merit and should be dismissed.

4. On 26 November 2024, the Applicant filed supplementary submissions seeking to contest the Management Advice and Evaluation Section's decision dated 18 October 2024, regarding the non-renewal of his temporary appointment. He submits that:

The decision, which upheld the initial non-renewal, fails to address critical issues such as procedural irregularities, retaliation, and fairness in recruitment and performance evaluation processes. These issues raise significant concerns about the transparency and equity of administrative practices.

Consideration

5. 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.

6. In light of the above-mentioned provisions, the motion on interim measures pending proceedings can only be entertained when there is an ongoing or pending substantive application. *Corcoran* UNDT/2009/071, para. 35.; *Utkina* UNDT/2009/096, para. 31; *Igbinedion* UNDT/2011/110, paras. 22-24. In essence, these articles require the filing of a substantive application challenging a given administrative decision before an applicant can come before the Tribunal with a motion for interim measures during the proceedings. In the absence of a substantive application, an applicant has no standing to file a motion for interim measures.

7. In the current case, the Applicant seeks to invoke the Tribunal's power to grant injunctive relief through interim measures although he has not yet filed a substantive application with the Tribunal.

8. Additionally, he is seeking suspension of a decision to not renew his appointment. Regrettably, articles 10.2 of the Statute and 14.1 of the Rules of Procedure clearly provide that the Dispute Tribunal may not grant interim measures in cases of **appointment, promotion or termination**. A case of separation following non-renewal is a case of appointment, promotion or termination. *Benchebbak*, 2012-UNAT-256, paras. 33-34; *Siri* 2016-UNAT-609, para. 33.

9. In light of the foregoing, the Tribunal agrees with the Respondent that the motion is not receivable.

Conclusion

10. The Applicant's motion for interim measures is DENIED.

(Signed)

Judge Sean Wallace

Dated this 27th day of November 2024

Case No. UNDT/NBI/2024/068

Order No. 157 (NBI/2024)

Entered in the Register on this 27th day of November 2024

(Signed)

Wanda L. Carter, Registrar, Nairobi