



Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

HALL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

ADJOVI Sètonджи Roland, *Etudes Vihodé Ltée*
WILSON Anthony Kreil, *Etudes Vihodé Ltée*

Counsel for Respondent:

Sandra Baffoe-Bonnie, UNEP
Wambui Kahama-Bernard, UNEP

Introduction

1. The Applicant is a Finance and Budget Officer at P-4 level, working with the United Nations Environment Programme (“UNEP”), based in Nairobi.
2. By an application filed on 15 September 2025, the Applicant seeks to suspend what she terms as “administrative decisions, contained in the message dated 27 August 2025 (Annex 1), to: (a) reclassify her post downward from P-4 to P-3; and (b) not to renew her Fixed-Term Appointment (“FTA”).
3. On 17 September 2025, the Respondent filed a reply submitting that the application is not receivable, but should the Tribunal find it receivable, the contested decisions are lawful and procedurally sound.
4. On 18 September 2025, the Applicant filed a motion for leave to respond to the reply, which included her arguments in response. The Tribunal will grant the motion and consider the Applicant’s additional arguments.

Factual background

5. The Applicant joined UNEP on 9 January 2017. Her post as a Finance and Budget Officer was initially at the P-3 level, and subsequently reclassified to P-4 on 12 April 2023. Her current appointment is due to expire on 17 December 2025.
6. According to the application, in March 2025 the Applicant became aware of proposals to downgrade her post to P-3 and relocate it to Brussels. The Respondent says that this was part of UNEP’s organization-wide functional review in view of an anticipated need to reduce costs.
7. According to the Respondent, on 24 April 2025 the Director of the Corporate Services Division at UNEP met with the Applicant and explained that the functional review included a proposal to downgrade her post, which would imply the non-renewal of her contract due to expire in December 2025, since the P-4 post will cease to exist.

8. On 25 August 2025, the Applicant requested an update regarding the renewal of her contract. She partly wrote:

I am writing to formally request an update on the status of the renewal of my contract, which is due to expire on 17 December 2025.

A request for renewal was submitted on 14 July, in line with established practice. I understand that it was not endorsed by my first reporting officer (FRO) on the grounds that the position may be reclassified to a lower level (The position will be reclassified from P4 to P3 level). To date, I have not received any official communication regarding this matter, including any confirmation of a potential reclassification of the post. Given that this situation has a direct impact on my employment status, I would appreciate greater clarity and the opportunity to engage in a discussion on the matter. In several Townhall meetings, the Executive Director and Deputy Executive Director have emphasized the importance of dialogue between managers and staff in such circumstances. I would therefore welcome the opportunity for such an exchange in my case.

Furthermore, in light of the uncertainty, it is important that I receive timely information in order to plan accordingly.

9. On 27 August 2025, UNEP responded to the Applicant. UNEP partly wrote:

As you may recall, we began informal discussions with you as early as April to provide advance information on the structural review of ECOU and the broader realignment of UNEP. At that time, and again during your discussions with your First Reporting Officer in May, it was communicated that the position you encumber is expected to be reclassified from P-4 to P-3 as part of the approved proposals. This reclassification would, in turn, affect the renewal of your current fixed-term appointment, which expires in December 2025.

Under the Staff Regulations and Rules, a fixed-term appointment expires automatically on the end date specified in the Letter of Appointment, with no requirement for advance notice. Nevertheless, in the spirit of transparency and early dialogue, we have engaged you since April and we will also issue you with a formal three-month non-renewal notice confirming this outcome. The purpose has been to give you sufficient time to prepare and plan ahead of what we recognize is a difficult decision.

10. On 8 September 2025, the United Nations Office at Nairobi (“UNON”) issued a decision reclassifying the same post (No. 31014924) from P-4 back to P-3,

effective, 1 October 2025. The Applicant was formally notified of this decision on 16 September 2025.

11. On 11 September 2025, the Applicant requested management evaluation of the contested decisions. The Applicant is yet to get a response to her request.

Consideration

12. Art. 2.2 of the Tribunal's Statute and art. 13 of its Rules of Procedure provide 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. The Dispute Tribunal can suspend the contested decision only if all three requirements have been met.

13. The Tribunal recalls that the application contains two contested decisions, namely the reclassification and the non-renewal of the FTA.

Receivability

14. The Respondent argues that the application is not receivable on two grounds.

15. First, the Respondent contends that the management evaluation is time-barred because the 27 August 2025 email cannot be construed as the first notification of the contested decisions. The Respondent says that the Applicant was unequivocally aware of the substance of the decisions in May 2025, and the email dated 27 August 2025 was merely a reiteration of the information communicated over the preceding months. He argues that, since Staff Rule 11.2 (c) and Article 8(1)(c) of the UNDT Statute require that a request for management evaluation be submitted within 60 days from the date on which the staff member received notice of the administrative decision, the request filed on 11 September 2025 is time-barred.

16. There are three problems with this argument. First, Article 8.1(c) of the Dispute Tribunal statute merely says an application is receivable if "[a]n applicant has previously submitted the contested administrative decision for management

evaluation, where required”. The Tribunal Statute says nothing about the time for requesting management evaluation.

17. Second, the receivability of a request for management evaluation is an issue for the management evaluation unit to determine at this stage, not the Tribunal.

18. Third, and most important, the factual premise of this argument is faulty. The May email from UNEP upon which the Respondent relies unequivocally refers to the reclassification/downgrade as a proposal:

as I mentioned I am aware that there would be a CSD **proposal**”, “the CSD **proposal** included the reclassification of the P4 Finance and Budget position you currently occupy”, and “I said that the CSD **proposal** would be reviewed by the BSC [Budget Steering Committee], which is the case now. (emphasis added)

19. Indeed, the Respondent used the term “proposal” three times in recounting the facts in his reply.

20. To be very clear, A PROPOSAL IS NOT A DECISION!

21. A proposal is a plan, a suggestion, a proposition, or an idea. Proposals are subject to review, as the email says, and proposals only become decisions when they are adopted or approved by the appropriate authority.

22. In the current time, when the United Nations is examining potential efficiencies in operations and management (through the UN80 Initiative) which are likely to involve restructuring and the abolition of posts, it is irresponsible and disingenuous for the Respondent to equate knowledge of proposals to notice of a challengeable administrative decision.

23. Accordingly, the Tribunal rejects the Respondent’s argument that the application is time-barred.

24. In challenging the receivability of the reclassification claim, the Respondent also argues that the application is premature because the Applicant failed to exhaust a mandatory internal administrative appeal mechanism set forth in ST/AI/1998/9, regarding the system for classification of posts.

25. The Applicant does not address this argument in his response to the reply. Thus, the Tribunal finds it to be conceded. Additionally, the argument is well founded.

26. Section 5 of ST/AI/1998/9 provides that:

The decision on the classification level of a post may be appealed by the head of the organizational unit in which the post is located, and/or the incumbent of the post at the time of its classification, on the ground that the classification standards were incorrectly applied, resulting in the appellant, the appeal, together with the report of the classification of the post at the wrong level.

27. Last year the Appeals Tribunal ruled that this provision “reflects a mandatory internal appeal mechanism indicated by the use of the word “shall” and which, if not complied with, renders the application filed before the Dispute Tribunal not receivable.” *Bernard* 2024-UNAT-1422, para. 45. The Appeals Tribunal further observed that “failing to comply with the threshold issue of filing an appeal pursuant to ST/AI/1998/9 renders the UNDT application not receivable.

28. Consequently, all his submissions and additional evidence concerning the merits of the case cannot be considered by this Tribunal.” *Id.*, para. 55. Accordingly, the reclassification claim is not receivable.

Non-renewal decision

29. With regard to the decision not to renew the Applicant’s appointment when it expires, it is not contested that her FTA will expire on 17 December 2025. Since there are still about three months for the decision to take effect, the Tribunal notes that the matter not urgent.

30. Under staff rule 11.2(d), a response to a request for management evaluation “shall be communicated in writing to the staff member...within 45 calendar days of receipt of the request for for management evaluation if the staff member is stationed outside of New York.” That leaves sufficient time for the management evaluation to be completed before the non-renewal decision is implemented.

31. Therefore, this application to suspend the implementation of the non-renewal decision does not meet the test of urgency as stipulated in art. 2.2 of the Tribunal's Statute.

32. Since all three of the requirements for suspension must be met in a cumulative way, the failure to establish urgency makes it unnecessary for the Tribunal to consider the other requirements.

Conclusion

33. In light of the above, the Tribunal ORDERS that:

- a. The Applicant's motion for leave to respond to the reply is granted and the response was considered; and
- b. The application for suspension of action is denied.

(Signed)

Judge Sean Wallace

Dated this 19th day of September 2025

Entered in the Register on this 19th day of September 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi