



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2025/103
Order No.: 175 (NBI/2025)
Date: 30 September 2025
Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

MAKKY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Shuba Naik, OSLA

Counsel for Respondent:

UNHCR

Introduction

1. The Applicant serves as a Durable Solutions Associate with the United Nations High Commissioner for Refugees (UNHCR) in Cairo. She holds a fixed term appointment at the G6 level.
2. On 29 September 2025, the Applicant filed an application for suspension of action to prohibit the Respondent from terminating her appointment effective 1 October 2025.

Considerations

3. Article 2.2 of the Tribunal's Statute and art. 13 of its Rules of Procedure afford the Tribunal the authority 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 urgency, *and* where its implementation would cause irreparable damage.
4. These three requirements are cumulative. In other words, they must *all* be met in order for a suspension of action to be granted. *Hepworth* UNDT/2009/003, para. 8.
5. The burden of proof rests on the Applicant.
5. This Tribunal held in *Applicant* Order No. 087 (NBI/2014) para. 24 that

A suspension of action order is, in substance and effect, akin to an interim order of injunction in national jurisdictions. It is a temporary order made with the purpose of providing an applicant temporary relief by maintaining the *status quo* between the parties to an application pending trial. It follows, therefore, that an order for suspension of action cannot be obtained to restore a situation or reverse an allegedly unlawful act which has already been implemented.

6. On the point of urgency, the Tribunal notes that the Applicant received three notifications, verbal and written, between 24 April 2025 and 30 May 2025, regarding the abolition of her post, effective 1 October 2025. The 7 September 2025 email that she claims to be the termination notice was merely a reiteration of the decision taken and noticed to her months prior.

7. However, the Applicant did not request management evaluation within the required 60 days following the initial notification of the discontinuance decision. Instead, she waited until 26 September to file that request, and then yesterday filed her application to suspend implementation pending that late management evaluation.

8. This Tribunal has previously held that a request for interim relief will not be granted if the urgency is found to have been self-inflicted.

9. As recalled in *Jitsamruay* UNDT/2011/206, paras. 25 and 26:

[T]he Dispute Tribunal has held in several instances that the requirement of particular urgency will not be satisfied if the urgency was created or caused by the applicant (*Applicant* Order No. 164 (NY/2010), *Corna* Order No. 90 (GVA/2010), *Lorand* Order No. 93 (GVA/2010), *Yisma* Order No. 64 (NY/2011), *A-Ali et al.* Order No. 220 (NY/2011), as well as *Dougherty* UNDT/2011/133). The Tribunal has also held in *Sahel* UNDT/2011/023 and *Patterson* UNDT/2011/091 that informal attempts at settlement and mediation, if any, do not absolve an applicant from acting timeously.

Urgency is relative and each case will turn on its own facts, given the exceptional and extraordinary nature of such relief. If an applicant seeks the Tribunal's assistance on urgent basis, she or he **must come to the Tribunal at the first available opportunity**, taking the particular circumstances of her or his case into account. The onus is on the applicant to demonstrate the particular urgency of the case and the timeliness of her or his actions. (emphasis added)

10. Similarly, in *Maloka Mpacko* UNDT/2012/081, at para 22, the Dispute Tribunal held:

[I]f an applicant seeks the Tribunal's assistance on an urgent basis, she or he must come to the Tribunal at the first available opportunity, taking the particular circumstances of her or his case into account (*Evangelista* UNDT/2011/212). The onus is on the applicant to demonstrate the particular urgency of the case and the timeliness of her or his actions. The requirement of particular urgency will not be satisfied if the urgency was created or caused by the applicant (*Villamorán* UNDT/2011/126, *Dougherty* UNDT/2011/133, *Jitsamruay* UNDT/2011/206).

11. In the circumstances of this case, the Tribunal finds that the urgency in this case is of the Applicant's own making.

12. Having failed to satisfy the urgency prong of the test for suspension of action, in what is a cumulative test, it is unnecessary to deliberate on the remaining prongs.

Conclusion

13. The application for suspension of action pending management evaluation is DISMISSED.

(Signed)

Judge Sean Wallace

Dated this 30th day of September 2025

Entered in the Register on this 30th day of September 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi