



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2025/125
Order No.: 235 (NBI/2025)
Date: 18 November 2025
Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

MIREMBE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S MOTION
FOR SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Lucienne Pierre, AS/ALD/OHR/UN Secretariat

Charlene Ndirangu, AS/ALD/OHR/UN Secretariat

Introduction

1. The Applicant serves as the Gender Affairs Officer at the United Nations Support Office in Somalia. She holds a continuing appointment at the P4 level and is based in Mogadishu.
2. On 11 November 2025, the Applicant filed an Application for Suspension of Action Pending Management Evaluation to stay the Respondent's decision to include the post she encumbers in a review process that will feed into the Mission's contingency plan in a downsizing exercise.
3. In his reply, the Respondent moves the Tribunal to dismiss the Applicant's motion for a stay as not materially receivable.

Considerations

4. 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.
5. 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. The burden of proof rests on the Applicant. (*Masoomi* Order No. 100 (GVA/2022) at para. 11; *Nivin* Order No. 19 (GVA/2023) at para. 16.)
6. 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.

7. In this case, the Applicant identifies the decision which she seeks to suspend as:

The decision of the OiC UNSOS to include the functions of the Gender Affairs Officer-P4 which I am encumbering in the Mission's contingency plan for review by the Staff Management Group established by the OiC UNSOS as part of the downsizing exercise which will result in the termination of my appointment.

8. According to the application, the decision was made on 3 November 2025, "to be implemented: immediately." Thus, on its face, the impugned decision has already been implemented.

9. Moreover, the Respondent argues that the decision to place the P4 Gender Affairs post in a comparative review process is not a reviewable administrative decision, in that no decisions have been made that is adverse to the Applicant's terms of appointment.

10. While the Tribunal notes the Respondent's blithe silence in not addressing the Applicant's arguments on the merits, the Respondent is correct in his submission that the application is premature.

11. The P4 Gender Affairs position is being reviewed against other positions within the Mission by the Senior Management Group with a view to deciding which positions can be abolished when the time comes - in the future. Thus, the Applicant's request for a stay of that process is premature.

12. The Tribunal recalls that under the jurisprudence of the Appeals Tribunal, only a final decision that has direct consequences for the staff member's legal rights and obligations is receivable before the Dispute Tribunal (see *Avramoski* 2020-UNAT-987, para. 39; *Faye* 2016-UNAT-657, para. 30; *Lee* 2014-UNAT-481, paras. 48-49; *Ngokeng* 2014-UNAT-460, para. 27). A staff member may not challenge the intermediate or preparatory steps of an administrative decision (see *O'Brien* 2023-UNAT-1313, para. 24).

13. Put simply, under the current circumstances, as described by both the Applicant and the Respondent, there is nothing for the Tribunal to suspend.

ORDERS

14. The application for suspension of action is dismissed.

(Signed)

Judge Sean Wallace

Dated this 18th day of November 2025

Entered in the Register on this 18th day of November 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi