



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.: UNDT/NY/2013/010  
Order No.: 41 (NY/2013)  
Date: 12 February 2013  
Original: English

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**Before:** Judge Goolam Meeran

**Registry:** New York

**Registrar:** Hafida Lahiouel

CHARLES

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON APPLICATION FOR  
SUSPENSION OF ACTION**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
ALS/OHRM, UN Secretariat

## **Introduction**

1. The Applicant, a Procurement Officer at the P-3 level, requests that the administrative decisions to fill two job openings at the P-4 level be suspended during management evaluation pursuant to art. 2.2 of the Statute of the Dispute Tribunal.

2. The application, which was received on 11 February 2013, was transmitted to the Respondent on 12 February 2013. The Tribunal did not invite the Respondent to file any comments.

## **Background**

3. On 19 December 2012, the Applicant filed a request for management evaluation concerning the filling of the posts of Team Leader, Capital Master Plan, and Team Leader, Infrastructure Support Team.

4. On 14 January 2013, the Management Evaluation Unit (“the MEU”) acknowledged receipt of the Applicant’s request.

5. On 29 January 2013, under art. 2.1 of the Statute of the Dispute Tribunal, the Applicant filed an application on the merits in which he challenged the filing of the same two job openings to which he refers in the present case. That case was assigned Case No. UNDT/NY/2013/008. The claims regarding the substance of this case are the same as those advanced in the present case, namely that the job openings were filled without the issuance of proper vacancy announcements.

6. On 7 February 2013, the Applicant emailed the MEU requesting that he receive a response to his request for management evaluation. According to the Applicant’s application in the present case, this response remains pending.

## Consideration

7. Pursuant to art. 2.2 of the Statute of the Dispute Tribunal, the Tribunal is:

... competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal *to suspend*, during the pendency of the management evaluation, *the implementation* of a contested administrative decision that is the subject of *an ongoing* management evaluation ... [emphasis added]
8. It follows from art. 8.4(b) of the Dispute Tribunal's Statute that the MEU must respond to a request for management evaluation within 30 calendar days of its submission. This time limit had elapsed with the result that the administrative decision stands and the process of the management evaluation is in principle concluded with the Applicant having 90 days from the end of the response period to file his claim with the Dispute Tribunal pursuant to art. 8.1(d)(b) of the Dispute Tribunal's Statute.
9. In the present case, the Applicant filed his request for management evaluation on 19 December 2012 and, in accordance with art. 8.4(b) of the Dispute Tribunal's Statute, the MEU's response time therefore ended on 18 January 2013. There is no information before the Tribunal that the Respondent had extended its time for management evaluation under staff rule 11.2(c) "pending efforts of informal resolution conducted by the Office of the Ombudsman".
10. Consequently, pursuant to art. 2.2 of the Statute of the Dispute Tribunal, there is no longer a management evaluation "ongoing" in the present case.
11. Furthermore, with reference to art. 2.2 of the Statute of the Dispute Tribunal, the Tribunal notes that it is only competent insofar as the administrative decisions sought to be suspended have not yet been implemented. In the present case, the Applicant states that the job openings in question have already been filled. Accordingly, since the Applicant has not requested the suspension of any other administrative decisions in the context of the present case, there do not appear to be such administrative decisions for the Tribunal to suspend.

12. The Applicant has already filed an application on the merits. He has not requested the grant of an order for an interim measure pursuant to art. 10.2 of the Statute and art. 14 of its Rules of Procedure.

13. The request for a suspension of action under art. 2.2 of the Statute of the Dispute Tribunal and art. 13 of its Rules of Procedure has no merit.

IT IS ORDERED THAT:

14. The request for a suspension of action under art. 2.2 of the Statute of the Dispute Tribunal and art. 13 of its Rules of Procedure is dismissed.

*(Signed)*

Judge Goolam Meeran

Dated this 12<sup>th</sup> day of February 2013