



**Before:** Judge Alessandra Greceanu

**Registry:** New York

**Registrar:** Hafida Lahiouel

EL-KOMY

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON APPLICATION FOR  
INTERIM RELIEF**

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**Counsel for Applicant:**  
Self-represented

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

## **Introduction and background**

1. On 27 January 2012, the Applicant, a staff member in the Arabic Translation Service (“ATS”), Department for General Assembly and Conference Management (“DGACM”), filed an application contesting the decision to extend his initial two-year probationary appointment by one year.

2. On 20 March 2013, pursuant to art. 2.2 of the Statute of the Dispute Tribunal and art. 13 of its Rules of Procedure, the Applicant filed an application for suspension of action, pending the completion of his request for management evaluation, of the decision to separate him from service following the decision not to grant him a permanent appointment upon the completion of his probationary employment period. This separate action was assigned Case No. UNDT/NY/2013/016. By Order No. 76 (NY/2013) dated 26 March 2013, the Tribunal ordered the suspension, during the pendency of the management evaluation, of the decision to separate the Applicant from service on 31 March 2013.

3. On 25 March 2013, within the scope of the present case, the Applicant filed an application for interim relief pursuant to art. 10.2 of the Statute of the Dispute Tribunal and art. 14 of its Rules of Procedure whereby he requests the suspension of the decision to separate him from service following him not being granted a permanent appointment. Namely, the decision already dealt with by Order No. 76 (NY/2013).

## **Consideration**

4. The present motion for interim relief was filed in accordance with art. 10.2 of the Statute of the Dispute Tribunal and art. 14 of its Rules of Procedure. Prior to considering whether the Tribunal can suspend the impugned decision, the Tribunal has to determine the scope of the case presently before it and therefore what the actual contested decision is (see *Planas* 2010-UNAT-049 and *O’Neill* 2011-UNAT-182).

5. The contested decision, which is the subject of the present case, Case No. UNDT/NY/2012/003, was identified by the Applicant in his 27 January 2012 application, as the “one-year extension of probationary appointment of the Applicant to 24 June 2012”. This contested decision was taken by the Organization on 24 June 2011 and notified to the Applicant on 9 August 2011. The one year extension of the Applicant’s probationary appointment expired on 24 June 2012.

6. As part of his current motion for interim relief, the Applicant identified the contested decision which he is seeking to have suspended as the decision to separate him from service following the decision not to grant him a permanent appointment upon the completion of his period probationary employment.

7. Based on a review of the parties’ submissions, the decision which the Applicant is seeking to have suspended is not the subject of the present case (Case No. UNDT/NY/2012/003). Furthermore, due to the passage of time, the impugned decision in this case has actually already been implemented.

8. Consequently, the Tribunal finds that, within the ambit of the present case, it is not capable of granting the interim relief sought by the Applicant. The Tribunal notes that by Order No. 76 (NY/2013) in Case No. UNDT/NY/2013/016, the decision to separate the Applicant on 31 March 2013 was suspended pending the completion of the management evaluation of the decision, which was also the subject of the motion for interim relief filed in the present case. For a summary of the relevant background in that case, the Tribunal refers to Order No. 76 (NY/2013).

IT IS ORDERED THAT:

9. The application for interim relief is rejected.

*(Signed)*

Judge Alessandra Greceanu

Dated this 28<sup>th</sup> day of March 2013