



Before: Judge Alessandra Greceanu

Registry: New York

Registrar: Hafida Lahiouel

AUDA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:
Self-represented

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

Introduction

1. On 19 June 2016, a Sunday, the Applicant filed an application for suspension of action pending management evaluation. The decision which the Applicant sought to suspend was identified as follows:

The decision of the Under-Secretary-General, Department of Management (DM), not to cancel then make a selection pursuant to Job Opening number 15-IST-OICT-41653-R-NEW YORK (R) for the defunct position of Chief of Service (D1), Strategic Information and Communication Technology Management, in the Office of Information and Communications Technology (OICT).

2. On 20 June 2016, the first working day after the filing of the application, the case was assigned to the undersigned Judge. In accordance with the instructions of the Judge, the New York Registry of the Dispute Tribunal transmitted the application to the Respondent, directing that a reply be filed by 5:00 p.m. on Tuesday, 21 June 2016.

3. On 21 June 2016, the Respondent filed a reply to the application for suspension of action. The Respondent attached a response from the Management Evaluation Unit (“MEU”), dated 21 June 2016, to the Applicant’s 16 June 2016 request for management evaluation (which had identified the contested decision in identical terms to the quote at para. 1 of this Order). The Respondent submits that, as a result of the determination from the MEU, the contested decision is no longer pending management evaluation, and the Tribunal does not have jurisdiction to order a suspension of action.

Consideration

4. Article 2.2 of the Tribunal’s Statute states:

The Dispute Tribunal shall be 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, where the decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

5. Article 13.1 of the Tribunal's Rules of Procedure states:

The Dispute Tribunal shall order a suspension of action 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, where the decision appears *prima facie* to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage.

6. The Tribunal considers that, for an application for suspension of action to be successful, it must satisfy the following mandatory and cumulative conditions:

- a. The application concerns an administrative decision that may properly be suspended by the Tribunal;
- b. The Applicant requested management evaluation of the contested decision, which evaluation is ongoing;
- c. The contested decision has not yet been implemented;
- d. The impugned administrative decision appears *prima facie* to be unlawful;
- e. Its implementation would cause irreparable damage; and
- f. The case is of particular urgency.

7. An application under art. 2.2 of the Statute is predicated upon an ongoing and pending management evaluation. The Dispute Tribunal may only suspend the implementation of a decision "during the pendency of management evaluation". Since the management evaluation of the contested administrative decision in this case is no longer pending and has been completed, one of the cumulative and mandatory

conditions has not been met. It is therefore, unnecessary to analyze the remaining cumulative and mandatory conditions set out above.

Conclusion

8. In the light of the foregoing, the Tribunal ORDERS:

The application for suspension of action is rejected.

(Signed)

Judge Alessandra Greceanu

Dated this 22nd day of June 2016