



**Before:** Judge Joelle Adda

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

ABALOS ET AL.

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**

**ON SUSPENSION OF PROCEEDINGS**

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**Counsel for Applicant:**

Christopher Bollen and Mathis Kern

**Counsel for Respondent:**

Daniel Trup, Legal Counsel, WMO

## **Introduction**

1. On 3 December 2020, the Applicants filed an application challenging the decision of the World Meteorological Organization (“WMO”) to implement a post adjustment multiplier determined by the International Civil Service Commission (“ICSC”) based on its 2016 cost-of-living survey, resulting in a pay cut for its staff in Geneva.

2. On 18 December 2020, the Respondent filed a reply in which he submits that “seven sets of cases” currently pending before the Appeals Tribunal would have “a dispositive [e]ffect” on the present case. He therefore requests “a stay of the proceedings” pending the outcome of the mentioned cases.

3. On 22 December 2020, the Applicants filed their observations to the Respondent’s reply.

## **Consideration**

4. In the Applicants’ 22 December submission, they request (a) the Tribunal to deny the requested stay of proceedings and (b) leave to file further “detailed observations”, summarizing their arguments as follows:

a. “The Applicants have not only contested the legality of the ICSC Pay Cut decisions on the basis of the ICSC’s lack of competence, but they also challenged these decisions on other grounds, notably their underlying methodology, substantive correctness and proportionality. These grounds were neither addressed nor discussed by the instant Tribunal in its decisions leading to the [Appeals Tribunal] cases. Therefore, the [Appeals Tribunal] will not consider such grounds in its review, which is a further reason why its judgments in these cases will not be dispositive for the present case’s outcome”;

b. “In the present case, the Applicants have submitted arguments which are specific to the WMO’s implementation of the ICSC Pay Cut Decisions by its Secretary General. These issues will obviously not be addressed by the UNAT in the other pending cases”; and

c. “The Respondent’s request is without merit and would only unnecessarily prolong the present proceedings, which have already been unnecessarily delayed by WMO’s failure to timely implement an independent and impartial first instance”.

5. The Tribunal notes that the formal track of the internal justice system is designed as a two-instance system and that the Appeals Tribunal has consistently affirmed the so-called doctrine of *stare decisis* whereby the judgments of the Appeals Tribunal are binding for the Dispute Tribunal (see, for instance, *Igbinedion* 2014-UNAT-410, paras. 23 and 24).

6. If the outcome of the cases currently pending before the Appeals Tribunal, namely *Doedens et al.* UNDT/2020/148, *Correiq Reis et al.* UNDT/2020/149, *Bettighofer et al.* UNDT/2020/150, *Avognon et al.* UNDT/2020/151, *Alsaqqaf et al.*, UNDT/2020/152, *Aligua et al.* UNDT/2020/153 and *Aksioutine et al.* UNDT/2020/154, could have a dispositive effect on the present case, it would only be reasonable for this Tribunal to grant the requested stay of the proceedings to ensure a fair and expeditious disposal of the case and to do justice to the parties (see art. 19 of its Rules of Procedure).

7. The Tribunal notes that the mentioned cases before the Appeals Tribunal and the present case concern the same basic issue, namely post adjustment for staff in Geneva. As stated by the Applicant, the cases before the Appeals Tribunal, however, “concern the legality of the ICSC Pay Cut decisions as applied to the Secretariat, funds and programmes of the United Nations” and not WMO.

8. The Tribunal notes that when WMO joined the formal track of the internal justice system on 20 January 2020, it accepted the jurisdictions of the Dispute and

Appeals Tribunals. While the Applicants in the present case might have framed their arguments in a different, and perhaps broader, WMO-specific manner, the Tribunal finds that the judgments of the Appeals Tribunal could, nevertheless, have a dispositive effect on the present case as all the cases concern the same basic issue. Further, the Tribunal notes that the cases before the Appeals Tribunal are to be considered at its next session from 8 to 19 March 2021.

9. Accordingly, if the Tribunal proceeded with the pending proceeding in the present case, this could lead to additional delays due to possible appeal(s) of this Tribunal's final determination(s) and a waste of valuable judicial resources. Further detailed observations from the Applicant are therefore not necessary at this stage.

10. The Respondent's request for a stay of the proceedings is therefore granted until the Appeals Tribunal has issued its judgments with full written reasons in the relevant cases.

IT IS ORDERED THAT:

11. The Respondent's request for a stay of the proceedings is granted. The proceedings of the present case are suspended until the Appeals Tribunal has issued its judgments with full written reasons in the relevant above-mentioned cases;

12. The Applicants' request to file further detailed observations to the Respondent's reply is denied.

*(Signed)*

Judge Joelle Adda

Dated this 2<sup>nd</sup> day of March 2021