



Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

MORALES

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON SUSPENSION OF ACTION

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Halil Göksan, AS/ALD/OHR/UN Secretariat

Introduction

1. On 13 September 2024, the Applicant, Chief of Service, Latin American and Caribbean Institute for Economic and Social Planning, United Nations Economic Commission for Latin America and the Caribbean (“ECLAC”), filed an application requesting suspension of action pending management evaluation of the decision to put her on administrative leave with pay (“ALWP”) pursuant to staff rule 10.4.

2. Upon the instructions of the Tribunal, the Respondent filed his reply on 18 September 2024.

Factual background

3. On 3 September 2024, the Office of Internal Oversight Services (“OIOS”) referred a complaint implicating the Applicant in prohibited conduct to ECLAC for appropriate action in accordance with the provisions of ST/AI/2017/1 (Unsatisfactory conduct, investigations, and the disciplinary process).

4. On 5 September 2024, pursuant to reviewing OIOS’s referral, the Executive Secretary placed the Applicant on ALWP “to safeguard the ongoing process for all parties involved” for an initial period of three months effective 9 September 2024 by concluding that the circumstances described in sec. 11.3(b), (d) and (e) on administrative leave of ST/AI/2017/1 were met.

5. On 13 September 2023, the Applicant filed a request for management evaluation and the present application.

Consideration

6. Under art. 2.2 of the Dispute Tribunal’s Statute and art. 13.1 of the Rules of Procedure, the Tribunal may 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.

Urgency

7. Urgency is relative and each case will turn on its own facts, given the exceptional and extraordinary nature of such relief. If an applicant seeks the Tribunal's assistance on an urgent basis, she or he must come to the Tribunal at the first available opportunity, taking the particular circumstances of her or his case into account. The onus is on the applicant to demonstrate the particular urgency of the case and the timeliness of her or his actions.

8. The Applicant argues that this case is urgent on the grounds that "this measure prevents [the Applicant] from undertaking [her] responsibilities as a chief of unit. [...] [The Applicant's] reputation would be damaged since [her] interactions are mostly with senior government officials. Finally, the hostility from the senior management particularly from October 2023 onwards leads [her] to believe that this measure is not connected to the complaint but to the purpose of replacing [the Applicant] [...]"

9. The Respondent states that the Applicant has failed to demonstrate any case of particular urgency with respect to her placement on ALWP. The Respondent submits that the contested decision will be reviewed, at the latest, in three months. The Respondent further submits the Applicant has a continuing appointment, and her placement on ALWP does not change the terms of that appointment.

10. Upon review of the submissions, the Tribunal finds that the Applicant has failed to demonstrate the particular urgency of this case. The Applicant has been placed on ALWP for a three-month period and the contested decision will be regularly reviewed. The Tribunal notes that the contested decision is a temporary administrative measure. There is no indication that the decision adversely impacts the Applicant's terms or conditions of appointment. The Applicant's allegation of malicious intent to replace her is not supported by any evidence. At this stage, the

outcome of the investigation cannot be foretold, and the process may end with a closure of the matter with no action, or it may be closed with managerial, administrative or disciplinary action.

11. Accordingly, the Tribunal finds that the Applicant has not established that there is a case of particular urgency in this case.

Prima facie unlawfulness and irreparable harm

12. As the Applicant has not satisfied the requirement of urgency, it is not necessary for the Tribunal to examine the two other conditions, namely *prima facie* unlawfulness and irreparable harm.

Conclusion

13. In light of the above, the Tribunal orders that the application for suspension of action is rejected.

(Signed)

Judge Joelle Adda

Dated this 20th day of September 2024

Entered in the Register on this 20th day of September 2024

(Signed)

Isaac Endeley, Registrar, New York