



Before: Duty Judge

Registry: New York

Registrar: Isaac Endeley

STOCKHOLDER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON INTERIM MEASURES DURING
THE PROCEEDINGS AND ON CASE
MANAGEMENT**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Jan Schrankel, UNHCR
Sally Jenna Sauer, UNHCR

Introduction

1. On 25 July 2024, the Applicant, a former staff member with UNHCR, filed an application contesting the “[d]ecision to not to extend the Applicant’s [fixed-term appointment (“FTA”)] for an additional five year period or shorter”.
2. On 31 July 2024, the Respondent filed a motion for summary judgment, requesting that the Applicant’s application on the merits be summarily dismissed pursuant to art. 9 of the Dispute Tribunal’s Rules of Procedure.
3. On 31 July 2024, the Applicant requested an order for interim measures during the proceedings requesting suspension of the implementation of the non-renewal of his FTA for another five-year or shorter period.
4. On 8 August 2024 the Respondent filed his response to the Applicant’s motion for interim measures submitting that the motion is not receivable *ratione materiae*.
5. On 3 September 2024, the Respondent filed his reply to the Applicant’s application on the merits. In his reply, the Respondent requested leave to exceed the 10-page limit in the Tribunal’s Practice Direction No. 4.

Consideration

Applicant’s motion for interim measures

6. Interim measures during the proceedings are governed by art. 10.2 of the Dispute Tribunal’s Statute and art. 14.1 of its Rules of Procedure. The former, which contains almost the same text as the latter, provides in relevant part that:

... At any time during the proceedings, the Dispute Tribunal may order an interim measure, which is without appeal, to provide temporary relief to either party, where the contested administrative decision appears *prima facie* to be unlawful, in cases of particular

urgency, and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

7. For the Tribunal to consider interim measures, several cumulative conditions set forth in the above-mentioned provisions must be met (see *Nadeau* Order No. 116 (NY/2015), *Harvey* Order No. 10 (GVA/2020)):

- a. The motion for interim measures must have been filed in connection with a pending application on the merits before the Tribunal and at any time during the proceedings;
- b. The interim measure(s) ordered by the Tribunal must provide solely a temporary relief to either party, such relief being neither definite by nature nor having the effect of disposing of the substantive case in relation to which the application for interim measures is filed;
- c. The required temporary relief must not concern appointment, promotion or termination;
- d. The contested decision appears *prima facie* to be unlawful;
- e. There is a particular urgency in requesting the interim measure; and
- f. The implementation of the contested decision would cause irreparable damage.

8. In the present case, the Tribunal notes that the Applicant requests the interim measure of suspension of the “[d]ecision not to extend the Applicant’s FTA for an additional five year period or shorter” under art. 14 of the Rules of Procedure. The condition indicated in para. 5(c) above stipulates that an application for interim measures during the proceedings must not concern appointment, promotion or termination. As this is clearly a case where the motion for interim measures concerns appointment, the temporary relief set out in art.14 is unavailable to the Applicant.

9. In any case, the Tribunal notes that the contested decision has already been implemented. In his motion, the Applicant acknowledges that the decision, the suspension of which he requests, was already implemented and, on 18 June 2024, the Applicant was separated from UNHCR. An interim measure to temporarily suspend a contested decision is only possible regarding decisions that have not yet been implemented. Since the decision not to renew the Applicant's FTA for another five-year or shorter period has already been implemented, the temporary relief set out in art.14 is unavailable to the Applicant.

Respondent's motion to exceed the page limit

10. In his reply, the Respondent requests leave to exceed the 10-page limit in the Tribunal's Practice Direction No. 4, in order to fully address the application "in which Applicant's factual and legal submissions are set out in roughly 50 pages".

11. The Tribunal notes that the application does indeed exceed the 10-page limit stipulated in the Tribunal's Practice Direction No. 4. Although the Applicant failed to request the requisite leave to exceed the page limit, the Tribunal considers it appropriate, at this stage, to grant the Respondent the opportunity to fully address the Applicant's factual assertions and legal arguments by granting the Respondent's motion.

12. In light of the above, and for the fair and expeditious disposal of the case and to do justice to the parties;

IT IS ORDERED THAT:

13. The motion for interim measures during the proceedings is rejected.
14. The Respondent's motion to exceed the page limit of the reply is granted.
15. Further case management directions, including relating to the Respondent's request for a summary judgment, will be given once the case is assigned to a Judge.

(Signed)

Judge Joelle Adda

Dated this 4th day of October 2024

Entered in the Register on this 4th day of October 2024

(Signed)

Isaac Endeley, Registrar, New York