



UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NY/2025/028
Order No.:	081 (NY/2025)
Date:	15 September 2025
Original:	English

Before: Judge Solomon Areda Waktolla

Registry: New York

Registrar: Isaac Endeley

MOHIELDIN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:
Self-represented

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

Introduction

1. On 5 September 2025, the Applicant, a former staff member with the Department of General Assembly and Conference Management (“DGACM”) in New York, filed an application to suspend the implementation, pending management evaluation, of the decision to deny his request for an extension of the two-year limit for claiming a repatriation grant.
2. On 11 September 2025, the Respondent filed his reply stating that the application is not receivable *ratione materiae* and that, in any event, it lacks merit.

Facts

3. The Applicant is a national of Sudan who served with DGACM in New York until he was effectively separated on 31 August 2023 upon attaining the mandatory retirement age. Following his retirement, he has been re-engaged on a when-actually-employed (“WAE”) basis until 31 December 2025. This means he is a staff member of the United Nations only on the days when he is assigned and accepts assignments for the Organization.
4. On 1 April 2025, the Applicant wrote to the Executive Office of DGACM requesting an extension of the two-year time limit for obtaining a repatriation grant from the Organization. Since he had gone on retirement on 31 August 2023, his normal deadline to claim the repatriation grant was by 31 August 2025. He explained that he has been granted asylum in the United States and has obtained a new work permit, but that he is still at least one year away from obtaining permanent resident status.
5. On the same date (1 April 2025), the Executive Office acknowledged receipt of the Applicant’s email and confirmed that he had two years from the date of separation from service to exercise his right to receive the repatriation grant.
6. On 7 April 2025, the Applicant was notified that his request had been forwarded to the Under-Secretary-General for the Department of Management Strategy, Policy and Compliance (“the USG/DMSPC”) “with the aim of securing exceptional approval”.

7. On 10 July 2025, the Executive Office informed the Applicant that after consultation with the ASG/OHR, his “request for an exception to Staff Rule 9.12(h) on an extension of the two-year limit for claiming repatriation grant [was] not supported”. That is the contested decision in this case.

8. On 2 September 2025, the Applicant submitted a request for management evaluation of the contested decision and on 5 September 2025, he filed the present application for suspension of action.

Considerations

9. Under art. 2.2 of the 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. These requirements are cumulative, and the Dispute Tribunal can suspend the implementation of the contested decision only if all three have been met.

10. As a preliminary matter, the Tribunal recalls that pursuant to art. 2.2 of its Statute, it may suspend, “during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation”. It follows that an application for suspension of action can only be entertained under the jurisdiction of the Dispute Tribunal when the challenged contested decision is the subject of an “ongoing” management evaluation (see *Onana* 2010-UNAT-008, para. 19; *Igbinedion* 2011-UNAT-159, para. 20).

11. In the present case, the Tribunal notes that in Part VI of the application form, the self-represented Applicant states that he requested management evaluation on 2 September 2025 and that he received the management evaluation response on 5 September 2025. After careful examination of the annexes submitted by the Applicant, however, the Tribunal finds that it was actually an acknowledgement letter (and not the final management evaluation response) that the Applicant received from the Management Advice and Evaluation Section

(“MAES”) on 5 September 2025. Accordingly, the Tribunal concludes that the management evaluation is still “ongoing” before the MAES.

12. The Applicant provides two main reasons for requesting an extension of the two-year time limit for claiming the repatriation grant. He submits that due to the “ongoing armed conflict and humanitarian catastrophe in Sudan”, he is currently unable to return there. He also cites his “pending permanent residency application in the United States, which legally prevents relocation at this time”.

13. On his part, the Respondent argues that the application for suspension of action is not receivable *ratione materiae* because “[t]he contested decision has already been implemented when the deadline for the Applicant to claim the repatriation grant expired on 31 August 2025”. According to the Respondent, “[i]f a decision has already been implemented, as is the case here, an order suspending its implementation would have no effect”.

14. Staff rule 9.12(h) provides in relevant part (emphasis in the original):

Time limitation for submission of the claim

(h) Entitlement to the repatriation grant shall cease if no claim has been submitted within two years after the effective date of separation, or under conditions established by the Secretary-General.

[...]

15. The Tribunal recalls that the Applicant was effectively separated from service on 31 August 2023 upon attaining the mandatory retirement age. Thus, he had until 31 August 2025 to claim the repatriation grant. The Tribunal also notes that the Applicant made a timely request, on 1 April 2025, for an extension of the deadline to claim the repatriation grant. However, when the decision denying his request for an extension beyond 31 August 2025 was notified to him on 10 July 2025, he failed to take timely action to contest it. Therefore, the decision is deemed to have been implemented on 31 August 2025.

16. It is well established in the jurisprudence of the Dispute Tribunal that if a contested decision has been implemented, suspension of action cannot be granted (see *Dalgamouni* Order No. 137 (NBI/2014), *De Luca* Order No. 79 (GVA/2019), *Laurenti* Order No. 243 (NBI/2013), *Rudolf Jocondo* Order No. 71 (NBI/2024)).

17. Further, as the Respondent points out, the jurisprudence is clear that the Tribunal cannot suspend a decision that has already been implemented. See, for instance, *Wang* UNDT/2012/080, para. 15; *Nwuke* UNDT/2011/107, paras. 51-53; *Abdalla* Order No. 4 (GVA/2010), para. 16; *Neault* Order No. 6 (GVA/2011), para. 26; and *McCarthy* Order No. 41 (NY/2018), para. 9.

18. The Tribunal finds that as the contested decision was implemented prior to the filing of the present application on 5 September 2025, it cannot now be suspended. Accordingly, the application for suspension of action stands to be rejected as not receivable. However, this is without prejudice to the Applicant's ability to file a timely application on the merits if he so chooses.

19. In light of the above,

IT IS ORDERED THAT:

20. The application for suspension of action is rejected as not receivable.

(Signed)

Judge Solomon Areda Waktolla

Dated this 15th day of September 2025

Entered in the Register on this 15th day of September 2025

(Signed)

Isaac Endeley, Registrar, New York