



**Before:** Judge Thomas Laker

**Registry:** Geneva

**Registrar:** René M. Vargas M.

PELLET

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON AN APPLICATION FOR  
SUSPENSION OF ACTION**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
N/A

## **Introduction**

1. On 12 May 2014, the Applicant filed an application for suspension of action, pending management evaluation, of a decision that he alleges to have been taken by the Staff Council of the United Nations High Commissioner for Refugees (“UNHCR”) (“Staff Council”) on 6 May 2014.

## **Facts**

2. On 16 April 2014, the Pooling Board of the Staff Council called for an Extraordinary General Assembly (“EGA”), to be held on 6 May 2014. Among the items on the agenda were:

4.1. Support the Staff Council to continue functioning with a membership of 6 persons pending the holding of partial elections to increase the membership in accordance with ... the Statutes of the UNHCR Staff Council;

4.2. Endorse the holding of partial elections to increase the membership as per ... the Statutes of the UNHCR Staff Council.

3. On 6 May 2014, the Staff Council sent an email (UNHCR Broadcast) to all staff expressing its “genuine thanks to all those at Headquarters as well as in the Field, who participated in the ... EGA ... held [that] morning” and expressing its appreciation with regard to “the adoption of the draft resolution presented to the EGA, namely:

- Support the Staff Council to continue functioning with a membership of 6 persons pending the holding of partial elections;

- Endorse the holding of partial elections to increase the membership as per ... the Statutes of the UNHCR Staff Council.

4. On 9 May 2014, the Applicant wrote an email to the Deputy High Commissioner of UNHCR—to whom the United Nations Under-Secretary-General for Management delegated the authority to carry out the functions of management evaluation governed by staff rule 11.2—asking him to review the decision of the Staff Council dated 6 May 2014, which he considered to be illegal.

5. On 12 May 2014, the Applicant filed the present application. He holds the view that the EGA exceeded its powers by adopting a decision that fundamentally changes the Statutes of the UNHCR Staff Association.

### **Consideration**

6. Pursuant to art. 2.2 of its Statute, the Dispute Tribunal may suspend, subject to a number of cumulative requirements, the implementation of a contested “administrative decision” only. The Appeals Tribunal has adopted the definition of an administrative decision based on the jurisprudence of the former United Nations Administrative Tribunal, according to which an administrative decision “is a unilateral decision taken by the administration in a precise individual case (individual administrative act) which produces direct legal consequences to the legal order” (see, e.g. *Al Surki et al.* 2013-UNAT-304).

7. According to this definition, decisions taken by the EGA or the UNHCR Staff Council are not administrative decisions, as neither of them are part of the Administration. Pursuant to art. 5 of the Statutes of the Staff Association of UNHCR, both the EGA and the UNHCR Staff Council exercise the functions of the Staff Association which—as the list of objectives in art. 3 of the same Statutes shows—does not, and cannot, include the rendering of administrative decisions.

8. In light of the foregoing, the application for suspension of action is not receivable and the Tribunal does not need to examine whether other prerequisites for a suspension of action, i.e., *prima facie* unlawfulness, urgency and irreparable damage, are fulfilled.

IT IS ORDERED THAT:

9. The application for suspension of action is rejected.

*(Signed)*

Judge Thomas Laker

Dated this 14<sup>th</sup> day of May 2014

Entered in the Register on this 14<sup>th</sup> day of May 2014

*(Signed)*

René M. Vargas M., Registrar, Geneva