



**Before:** Duty Judge

**Registry:** Geneva

**Registrar:** René M. Vargas M.

KAVOSH

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON MOTION FOR  
INTERIM MEASURES**

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**Counsel for Applicant:**

Wangenci Wahome Akedi

**Counsel for Respondent:**

Rebeca Britnell, UNHCR  
Francisco Navarro, UNHCR

## **Introduction**

1. The Applicant, a former staff member of the United Nations High Commissioner for Refugees (“UNHCR”), filed a Motion for Interim Measures pending proceedings requesting the Tribunal to order the Respondent to suspend, pending a determination of the merits of his case, the decision to include his name “in the UN Common System screening databases for sexual exploitation and abuse and for sexual harassment” pending a determination of the merits of his case.
2. For the reasons set out below, the Applicant’s motion for interim measures is rejected.

## **Facts**

3. By letter dated 11 May 2022, the Applicant was informed of the decision to dismiss him from service following a disciplinary process that found that the Applicant engaged, *inter alia*, in sexual exploitation and abuse, and sexual harassment. The letter further informed the Applicant that:

This disciplinary measure is effective on the date of transmission of this letter. A redacted copy of the letter will be inserted into your Official Status File. In addition, your name will be included in the UN Common System screening databases for sexual exploitation and abuse and for sexual harassment as having a final determination of sexual exploitation and sexual harassment, respectively. You will thus be excluded from consideration for future positions with any UN entity.

4. On 8 August 2022, the Applicant filed an application with the Tribunal contesting the decision to dismiss him for misconduct.
5. On 14 September 2022, the Respondent filed his reply.
6. On 19 April 2023, the Applicant filed the motion for interim measures referred to in para. 1 above.
7. The motion was served to the Respondent who filed his reply on 20 April 2023.

### **Consideration**

8. Article 10.2 of the Tribunal's Statute sets out the scope of the Tribunal's prerogatives to order interim measures following the filing of an application before it, and provides 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.

9. A similar provision is contained in art. 14 of the Tribunal's Rules of Procedure.

10. In light of the above-mentioned provisions, the Tribunal is precluded from entertaining a motion for interim measures if the subject matter of an application concerns a contested decision related to appointment, promotion, or termination.

11. Staff rule 9.6(a) provides that "termination within the meaning of the Staff Regulations and Rules is a separation from service initiated by the Secretary-General".

12. The Applicant in this case challenges the decision to dismiss him from service, which falls under the category of termination in accordance with staff rule 9.6(a). As such, the Applicant's motion for interim measures is not receivable.

### **Conclusion**

13. In view of the foregoing, the motion for interim measures pending proceedings is rejected.

(Signed)

Judge Teresa Bravo (Duty Judge)

Dated this 28<sup>th</sup> day of April 2023

Case No. UNDT/GVA/2022/029/T

Order No. 42 (GVA/2023)

Entered in the Register on this 28<sup>th</sup> day of April 2023

*(Signed)*

René M. Vargas M., Registrar, Geneva