



Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: Liliana López Bello

WAGNER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Manuel Calzada

Counsel for Respondent:

Nicole Wynn, AS/ALD/OHR/UN Secretariat

Victoria Mujunga, AS/ALD/OHR/UN Secretariat

Introduction

1. By application filed on 28 March 2025, the Applicant, a staff member of the United Nations Mission in Kosovo (“UNMIK”), requests suspension of action, pending management evaluation, of the decision to temporarily reassign her to the Office of Community Support (“OCS”) in Pristina.
2. The application for suspension of action was served on the Respondent, who filed his reply on 3 April 2025.

Facts

3. The Applicant holds a fixed-term appointment (“FTA”) at the P-5 level as Special Assistant to the Special Representative of the Secretary-General (“SRSG”) of UNMIK. On 19 December 2024, she was elected President of the Field and Staff Union (“FSU”).
4. On 10 January 2025, the Applicant was informed that due to operational reasons, she would be temporarily reassigned with her post as P-5 Special Assistant to the SRSG to the OCS “effective immediately” (the “first reassignment”).
5. On 23 January 2025, the Applicant responded to the reassignment letter asking the Administration to clarify the operational reasons behind the decision to reassign her, the duration of the temporary reassignment, the terms of reference of the new post, and whether she will retain her original post of Special Assistant to the SRSG.
6. On 20 February 2025, the Applicant was informed that she would be reassigned as the head of a new joint capacity in the Office of the Deputy SRSG (“ODSRSG”) under the Youth and Gender Affairs, “effective immediately” (the “second reassignment”).
7. On 11 March 2025, the Applicant requested management evaluation of the two reassignment decisions made on 10 January and 20 February 2025.

8. On 28 March 2025, the Applicant filed the instant application seeking the suspension of the reassignment decision of 10 January 2025.

Consideration

9. Art. 2.2 of the Tribunal's Statute provides that the Tribunal shall be competent to 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 three requirements are cumulative. In other words, they must all be met in order for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant.

10. According to the Applicant, the 10 January 2025 reassignment decision is arbitrary and retaliatory due to her recent election as President of the FSU and, therefore, unlawful. She asks the Tribunal to suspend said decision that aimed at removing her from the functions of Special Assistant to the SRSB.

11. The Tribunal notes, however, that, according to the Applicant's own description of events, the first reassignment decision was replaced by the second reassignment decision. That is, instead of being reassigned to the OCS, the Applicant is now expected to work at the ODSRSG.

12. Consequently, even if the first reassignment decision was indeed unlawful as the Applicant claims, said reassignment is no longer operational.

13. Therefore, the Tribunal fails to see the pertinence of the instant application for suspension of action of a decision that has been superseded by a second reassignment decision.

14. Recalling that applications for suspension of action are meant to "suspend the implementation of a contested administrative decision during the pendency of management evaluation", the Tribunal determines that there is no contested administrative decision to suspend in the instant case and that the application is, therefore, moot.

15. Notwithstanding, even if the first reassignment decision had not been replaced, the instant application would also be not receivable.

16. As correctly pointed out by the Respondent, the first reassignment was implemented on 10 January 2025. This is supported by the reassignment letter that stated that the decision was “effective immediately”, and by the Applicant’s Personnel Action Form dated 10 January 2025, which shows her assignment to the OCS. The Tribunal lacks jurisdiction under art. 2.2 of its Statute to reverse a decision that has already been implemented.

17. As it follows, had it not been moot, the application for suspension of action in this case would not be receivable.

Conclusion

18. In view of the foregoing, the application for suspension of action pending management evaluation is rejected.

(Signed)

Judge Sun Xiangzhuang

Dated this 4th day of April 2025

Entered in the Register on this 4th day of April 2025

(Signed)

Liliana López Bello, Registrar, Geneva