



**Before:** Judge Nkemdilim Izuako

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

RAHME

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 the Applicant:**  
Rami Ollaik

**Counsel for the Respondent:**  
ALS/OHRM

## **Introduction**

1. The Applicant is a former staff member at the United Nations Truce Supervision Organization (UNTSO) who served as a Field Language Assistant.
2. Following a disciplinary process against him, by a memorandum dated 21 September 2017, the Applicant was informed of the Respondent's decision to separate him from service, with compensation in lieu of notice and without termination indemnity.

## **The Application**

3. On 20 December 2017<sup>1</sup>, the Applicant filed this application under art. 13 of the UNDT Rules of Procedure for suspension of the disciplinary measure.
4. The application was served on the Respondent on 21 December 2017.

## **Considerations**

5. Article 2.2 of the UNDT Statute and art. 13.1 of the UNDT Rules of Procedure provide that the Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage.
6. Articles 13.2 and 13.3 of the UNDT Rules of Procedure provide that the Registrar shall transmit the application to the Respondent and that the Tribunal shall consider an application for interim measures within five working days of the service of the application on the Respondent.
7. Even though a copy of the suspension of action application has been transmitted to the Respondent, the Tribunal needs not await the Respondent's

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<sup>1</sup> The Applicant filed his application for suspension of action on 20 December 2017 after working hours of the Tribunal.

response before the application is considered. Therefore, the Tribunal will not wait for a response in the present case.

8. At the outset, the Tribunal notes that the Applicant's request for the suspension of an administrative decision in this case also amounts to a request for the suspension of a disciplinary measure.

9. It must be observed that the procedure for suspension of action under the UNDT Statute and Rules of Procedure cannot avail an Applicant who is the subject of a disciplinary measure.

10. It is evident that the disciplinary measure which the Applicant sought to contest has already been implemented, and as such, the application for the suspension of that measure cannot be granted simply because there is no pending decision to suspend. Consequently, the Tribunal cannot entertain the current application.

11. Nevertheless, the fact that the application for suspension of action cannot avail the Applicant in the present circumstances does not extinguish his right to challenge the disciplinary measure imposed on him. In other words, if the Applicant wishes to challenge the disciplinary measure to separate him from service, with compensation in lieu of notice, and without termination indemnity, he is at liberty to file an application on the merits.

12. The Tribunal wishes here to note that under the applicable rules, the Applicant has a deadline of 90 days from the date on which he was informed of the disciplinary measure against him to file such an application.

**Order**

13. This matter is accordingly struck out.

*(Signed)*

Judge Nkemdilim Izuako

Dated this 21<sup>st</sup> day of December 2017

Entered in the Register on this 21<sup>st</sup> day of December 2017

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi