



Before: Judge Sun Xiangzhuang

Registry: Nairobi

Registrar: Wanda L. Carter

HALAB

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON THE APPLICANT'S
APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Esther Shamash, UNDP

Introduction

1. The Applicant serves as a Human Resources Analyst at the United Nations Development Programme Country Office in Libya. He holds a fixed term appointment as a national officer and is based in Tripoli.

Procedural History and Submissions

2. On 29 April 2025, the Applicant filed an application for suspension of action to stay the Respondent's decision to not renew his contract when it expires on 30 April 2025.

3. It is the Applicant's case that the impugned decision is tainted by several extraneous factors. He submits *inter alia* that the decision to abolish his post and not renew his appointment was arbitrary and targeted; that it was retaliatory in response to his activities within the staff association; that the putative financial basis provided was flawed; that he had a legitimate expectation of renewal given the Organisation's investment in his professional development.

4. On 30 April 2025, the Respondent responded to the application. The Respondent moved the Tribunal to dismiss the application. The Respondent submits that the impugned decision was lawful and properly taken; that the Respondent properly exercised his discretion in deciding which posts needed to be abolished as part of the cost-cutting measures required of the Libya Office.

Considerations

5. Art. 13 of the Dispute Tribunal's Rules of Procedure governs the Tribunal's jurisdiction in deciding on applications to suspend implementation of a contested administrative decision pending determination of a request for management evaluation.

6. Art. 13 provides as follows:

1. 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.

2. [...]

3. The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.

4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

7. To succeed on a request for interim measures, an applicant must satisfy the Tribunal that the contested decision is *prima facie* unlawful, that the case is of particular urgency and that implementation of the decision would cause irreparable damage.

8. These three requirements are cumulative; they must *all* be met in order for a suspension of action to be granted. *Hepworth* UNDT/2009/003, para. 8. The burden of proof rests on the Applicant.

9. The Tribunal is not required at this stage to resolve any complex issues of disputed fact or law. All that is required is for a *prima facie* case to be made out by the Applicant to show that there is a triable issue before the Tribunal. *Hepworth* UNDT/2009/003 at para. 10, *Corcoran* UNDT/2009/071 at para. 45, *Berger* UNDT/2011/134 at para. 10, *Chattopadhyay* UNDT/2011/198 at para. 31; *Wang* UNDT/2012/080 at para. 18.

10. The legal presumption of regularity may be rebutted by evidence of failure to follow applicable procedures, the presence of bias in the decision-making process, and consideration of irrelevant material or extraneous factors. *Rolland* 2011-UNAT-122. See also *Simmons* 2014-UNAT-425; *Zhuang, Zhao and Xie* 2015-UNAT-536; *Tintukasiri* 2015-UNAT-526; *Landgraf* 2014-UNAT-471. The Applicant bears the burden of showing such irregularity in the impugned decision, and/or the circumstances surrounding it, so that there is doubt as to the lawfulness of the process.

11. The Tribunal has carefully reviewed the parties' submissions. The Applicant's allegations are all without merit. In fact, the Applicant produces no evidence to substantiate his claims. The Tribunal is therefore unable to conclude that he has discharged his burden to satisfy the Tribunal that the injunction he seeks is warranted.

12. The Respondent has, for his part, satisfied the Tribunal that the impugned decision was properly taken following a genuine restructuring exercise due to a budgetary deficit and substantially reduced funding.

13. Having considered the totality of the submissions before it, the Tribunal finds there is insufficient evidence to support the conclusion that the impugned decision is *prima facie* unlawful.

14. Having found that the impugned decision is not *prima facie* unlawful, and given that the test for suspension of action applications is a cumulative one, it is unnecessary for the Tribunal to proceed to assess this Application on grounds of urgency and irreparable harm.

ORDER

15. The application for suspension of action is DENIED.

(Signed)

Judge Sun Xiangzhuang

Dated this 30th day of April 2025

Entered in the Register on this 30th day of April 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi