



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2025/067
Order No.: 96 (NBI/2025)
Date: 27 June 2025
Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

WANG

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Self-represented

Counsel for Respondent:

ALD/OHR, UN Secretariat

Introduction

1. The Applicant serves as a Military Liaison Officer with the United Nations Disengagement Observer Force (UNDOF). He holds a temporary appointment at the P4 level and is based in Amret al Faouar, Syria.

Facts and Procedural History

2. On 26 June 2025, the Applicant filed an Application for Suspension of Action Pending Management Evaluation challenging the Respondent's decision to not renew his appointment when it expires on 30 June 2025.

3. The Applicant was informed that his contract cannot be renewed because "one of the two parties" (to the conflict) "does not support the recruitment of international staff from P5 countries" (the five permanent members of the United Nations Security Council). The Applicant was also expressly informed that the decision does not reflect his "performance or contributions" (to the Mission).

4. It is the Applicant's case that the impugned decision is *prima facie* unlawful; and that unless it is urgently stayed, it would cause him irreparable harm.

5. The Tribunal served the application on the Respondent, and directed that a reply be filed by close of business in Nairobi on 27 June 2025. The Respondent filed his reply as directed and moved the Tribunal to dismiss the application. The Respondent argues that the impugned decision is lawful. There is no written evidence that he was promised an extension of his appointment, and that the explanation for the non-renewal as provided to the Applicant is "reasonable." The Respondent also argues that the urgency in this matter is self-created, and that the Applicant has not demonstrated that the decision will cause him irreparable harm.

Consideration

6. Articles 2.2 of the Dispute Tribunal's Statute and 13 of its Rules of Procedure govern the Tribunal's jurisdiction in deciding on applications to suspend implementation of a contested administrative decision that is the subject of an ongoing management evaluation. An applicant must satisfy the Tribunal that the

contested decision is *prima facie* unlawful, that the case is of urgency and that implementation of the decision would cause irreparable damage.

7. These three requirements are cumulative. In other words, 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.

8. This Tribunal held in *Applicant* Order No. 087 (NBI/2014) para. 24 that

A suspension of action order is, in substance and effect, akin to an interim order of injunction in national jurisdictions. It is a temporary order made with the purpose of providing an applicant temporary relief by maintaining the *status quo* between the parties to an application pending trial. It follows, therefore, that an order for suspension of action cannot be obtained to restore a situation or reverse an allegedly unlawful act which has already been implemented.

9. The Applicant in this case claims that the impugned decision is grounded in discrimination. He is being discriminated against on the basis of his nationality. The Tribunal finds that the Respondent did not address this argument, and agrees with the Applicant that the decision is at least *prima facie* unlawful.

10. On the urgency limb of the test, the record shows that the contested decision was communicated to the Applicant *via* email dated 4 June 2025, and that he filed management evaluation two days later, on 6 June 2025. Since then, the Applicant has repeatedly reiterated the urgency and followed up on the status of his request for review with the Management Advice and Evaluation Section (MAES) to ascertain if a decision will issue *before* his contract expires. On 17 June 2025, MAES informed the Applicant that it has 45 days within which to review his request and that a response from UNDOF was only due on 24 June 2025. Assuming that the UNDOF response was timely received, MAES has not yet issued its decision, and non-renewal is to take effect on Monday, 30 June, i.e., the next business day. The Tribunal finds therefore that the urgency in this case is not the result of dilatory conduct on the part of the Applicant.

11. The Tribunal finds that the abrupt loss of his livelihood, and his reputation, will cause the Applicant irreparable harm.

12. Irreparable harm is generally defined as harm that cannot be compensated for. The Tribunal has previously held that the concept of irreparable harm goes beyond the question of money alone.

13. In *Khambatta* UNDT/2012/058, this Tribunal held that:

Loss of employment is to be seen not merely in terms of financial loss, for which compensation may be awarded, but also in terms of loss of career opportunities. This is particularly the case in employment within the United Nations which is highly valued. Once out of the system the prospect of returning to a comparable post within the United Nations is significantly reduced. The damage to career opportunities and the consequential effect on one's life chances cannot adequately be compensated by money. The Tribunal finds that the requirement of irreparable damage is satisfied.

See also, *McDonald*, UNDT/2012/098 paras. 34-35 and *Okongo*, UNDT/2012/099, paras. 28-29.

14. Additionally, in *Tadonki* UNDT/2009/016, the Tribunal stated:

A wrong on the face of it should not be allowed to continue simply because the wrongdoer is able and willing to compensate for the damage he may inflict. Monetary compensation should not be allowed to be used as a cloak to shield what may appear to be a blatant and unfair procedure in a decision-making process.

14. The Tribunal is satisfied that allowing the impugned decision to stand will cause the Applicant irreparable harm. A tarnished professional reputation, particularly at the level the Applicant currently occupies, will inevitably and invariably follow.

Conclusion

15. The Tribunal makes the following ORDERS:

- a. The application for suspension of action is **GRANTED**;

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- b. The impugned decision is stayed pending management evaluation.

(Signed)

Judge Sean Wallace

Dated this 27th day of June 2025

Entered in the Register on this 27th day of June 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi