



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2025/074  
Order No.: 108 (NBI/2025)  
Date: 23 July 2025  
Original: English

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**Before:** Judge Sean Wallace

**Registry:** Nairobi

**Registrar:** Wanda L. Carter

ASIKEIT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**

Jason Biafore, OSLA

**Counsel for Respondent:**

Tiffany Henderson, UNOPS

## **Introduction**

1. The Applicant is the Senior Programme Officer/Programme Management Advisor working with the United Nations Mine Action Service (“UNMAS”), based in Juba, South Sudan. The Applicant’s appointment is managed by the United Nations Office for Projects Services (“UNOPS”).
2. By an application filed on 18 July 2024, the Applicant seeks to suspend a decision dated 8 July 2025 seeking to abolish her post due to funding constraints.
3. On 23 July 2025, the Respondent filed a reply submitting that the contested decision is lawful.

## **Factual background**

4. The Applicant reported on duty on 1 August 2023, at P-4 level, serving on a fixed-term appointment. She has since received extensions of her contract and the current appointment is due to expire on 31 July 2025.
5. The Applicant states that almost immediately upon taking up her appointment, she began to experience a difficult working environment. For example, within the first month of service, her First Reporting Officer (“FRO”), then Chief of Operations/Head of Programme Unit, told her that she was not his preferred candidate for the position and that he would have selected a different applicant. The FRO went on state that the Applicant was only selected to fulfil UNOPS gender parity policies, dismissively suggesting that she was merely a “diversity hire”. The Applicant avers that these statements marked the beginning of a pattern of discriminatory and retaliatory behavior that continues to the present day.
6. The Applicant further states that beginning October 2023, the Applicant’s FRO proposed a Performance Improvement Plan (“PIP”) for her. However, following mediation, the PIP was set aside.

7. In April 2024, the Applicant's FRO rated her as "partially meets performance expectations" and recommended further "poor" performance management and administrative action by UNOPS.

8. Having realized what appeared to her to be a pre-determined effort to manage her out of her position, on 24 April 2024, the Applicant filed a complaint against her FRO to UNOPS' Internal Audit and Investigation Group ("IAIG").

9. On 28 October 2024, the Applicant wrote to UNOPS Ethics Office seeking protection against retaliation. She wrote:

Dear Ethics Team,

I am writing to request for protection against retaliation. I submitted a formal complaint against my previous supervisor to the UNOPS internal grievances team on April 29, 2024, and the matter is still under review.

However, my current supervisor, who was promoted to the P4 role and previously supervised by the individual named in my complaint, recently imposed a Performance Improvement Plan (PIP) on me, effective from September 30 to December 31, 2024. I am concerned that this PIP is being used as a tool to manage me out of my role as a result of my formal complaint in April. I believe that the PIP may have been predetermined, as it was introduced even before I could submit my performance overview during the mid-year review meeting. The PIP objectives are not clear as they do not indicate a way of measuring the performance or clearly outline the objectives themselves. The evidence provided is isolated cases or mis-contextualized ones. To me, its tone is subjective especially when it asserts that I have "serious deficits" in some areas. I presented evidence of my performance; however, my supervisor responded that I have a "good personality" and that he has "enjoyed working with me over the past few months." He added, however, that as the head of the programme unit, he "had to protect the system." His references to third parties in the PIP process further suggest it may be a retaliatory measure.

I kindly request guidance on how I can be protected in this situation.

10. Despite the fact that her first FRO had already left the duty station, he still completed the Applicant's performance review in early 2025 and rated her as "Partly met expectations".

11. On 21 March 2025, the Applicant rebutted this performance rating.

12. On 28 May 2025, UNOPS Performance Management Specialist (“PCG”) informed the Applicant that her rebuttal was successful and that her performance rating would be amended upward to “Fully met expectations.”

*Facts relating to the budget constraints*

13. On 21 May 2025 the Director for Mission Support (“DMS”) at United Nations Mission in South Sudan (“DMS/UNMISS”) wrote to the Deputy Director, UNMAS (“DD/UNMAS”) informing that:

As you may be aware, we have been asked to prepare contingency plans with drastic cuts starting in 25/26 budget cycle linked to non-payment from a major contributor, and in view of the magnitude of cuts we are being asked to consider as part of this contingency plans, every group in our budget would be affected, including UNMAS.

14. On 30 May 2025 the DMS/UNMISS wrote to the Director, Department of Peace Operations (“DPO”), UNMAS (“D-DPO-UNMAS”) stating:

As you know, DPO is leading a contingency planning exercise for a 26% reduction of some missions’ 25/26 budgets as of 1 October as the most likely scenario [...] I would therefore kindly ask that you start planning, liaising with DPO colleagues as necessary, so that should the contingency plan need to be implemented, UNMAS contracts can be terminated as of 1 October in a list of locations to be closed by the mission.

15. On the same day, the Applicant attended an UNMAS management meeting in which the Chief Mine Action informed management of the 26.2% budget cut, and that several positions, including hers, were proposed for abolishment. The Applicant, however, states that she learned through a meeting with her new FRO on 8 July 2025 that her post was being abolished and that her appointment, expiring on 31 July 2025, would not be renewed.

16. On 5 June 2025, UNMAS submitted a proposal to the Head of Programme, PSC, regarding UNMAS South Sudan structure changes stemming from the budget reduction for the 25/26 budget year, which included, *inter alia*, reducing the number of international personnel from 13 to 10, including the Applicant’s post.

17. On 11 June 2025, the Assistant Secretary-General, Controller, wrote to UNOPS requesting UNOPS to use its resources to make commitments for a period of one month for personnel and third-party contracts, *inter alia*, to ensure continuity for these contracts.

18. On 27 June 2025, a town hall was held by the UNOPS Peace and Security Cluster leadership with all staff during which personnel were informed, *inter alia*, that due to anticipated funding cuts there would be a reduced operational capacity affecting staffing and roles. Personnel were also informed that the United Nations Controller's office had authorized a one-month extension for everyone's contract until 31 July 2025 to ensure operational continuity while the new financial agreement is being finalized.

19. On 4 July 2025, the Applicant received a notification that her appointment was being extended only for one month, until 31 July 2025.

20. By a letter dated 8 July 2025, UNOPS provided the Applicant with a formal communication about the abolition and the non-renewal of her post. UNOPS wrote:

Dear Mrs. Deborah Asikeit,

I refer to the online meeting through Google Meet between you and PSC Head of Programme, held on 08 July 2025, where you were notified that due to funding constraints and a subsequent reduction of the UNMAS South Sudan programme staffing structure, your position as Senior Programme Officer in Juba, South Sudan Office would be abolished.

Consequently, it is with deep regret that I now confirm in writing that your appointment with UNOPS Peace and Security Cluster (PSC) that is due to expire on 31 July 2025, will not be renewed, and that you will be separated from UNOPS at close of business that day.

I would like to take this opportunity to thank you for your contribution to our work and to wish you the best of success in your future personal and professional endeavours.

21. The Applicant submits that later she came to learn that in recent weeks, discussions seeking to reach a Financial Agreement were held internally among various staff members, representing UNMAS and UNOPS Peace and Security Cluster ("PSC"), South Sudan, UNOPS PSC Headquarters and UNMAS teams. The

Applicant avers, that normally, she would be part of these discussions, but she was excluded in this instance. These discussions involved staff below her grade and ultimately resulted in the proposal to abolish her post. The Applicant insists that she did not have the opportunity to participate in these discussions and advocate for herself as she normally would have.

22. The Applicant also avers that she has come to learn of a proposal to use funds purportedly saved from abolishing her post, to reactivate another dormant and long-unfilled P-4 post, to which the bulk of her duties and responsibilities will be transferred. On its face, this illustrates that any budgetary savings realized from the abolition of her post will be diverted to fund the reactivation of this other P-4 post, to which most of Applicant's duties are likely to be transferred, raising serious concerns as to the legitimacy of the abolishment.

23. On 18 July 2025, the applicant requested management evaluation of the contested decision. The Applicant is yet to get a response of her request.

### **Consideration**

24. Art. 2.2 of the Tribunal's Statute and art. 13 of its Rules of Procedure provide 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. The Dispute Tribunal can suspend the contested decision only if all three requirements have been met.

#### *Prima facie unlawfulness*

25. It is settled law that a fixed term appointment carries no expectations of renewal. See, e.g., United Nations Staff Rules 4.12 and 4.13. See also, *inter alia*, *Syed* 2010-UNAT-061, para. 13; *Badawi* 2012-UNAT-261, para. 33; *Appellee* 2013-UNAT-341, para. 16; *Hepworth* 2015-UNAT-503, para. 42; *Munir* 2015-UNAT-522, para. 24; *Nouinou* 2020-UNAT-981, paras. 65-66.

26. The Applicant submits that the decision to not renew her appointment is *prima facie* unlawful because she has an active case of retaliation before UNOPS Ethics Office and has presented some evidence that the justification given of “*funding constraints*” may in fact be suspect.

27. However, the Applicant’s argument ignores the irrefutable fact that the abolition of her post, and the subsequent non-renewal of that post, was part of a broad restructuring proposal in response to major budgetary cuts linked to non-payment from a major contributor. Her post was not the only one abolished. On the contrary, the record indicates that that post was one of eight positions abolished.

28. The Applicant argues that the funding constraints justification “may in fact be suspect” because funds will be used “to reactivate another dormant and long-unfilled P-4 post, to which the bulk of [her] duties and responsibilities will be transferred”. In fact, the other P-4 post is Head of Project Unit (“HPU”) which only became vacant seven months ago, in December 2024, and the Applicant’s duties will not be transferred to the HPU. Instead, the Applicant’s P-4 Senior Programme Officer duties will be assigned to a P-3 Programme Officer:

Scaled down responsibilities for planning and reporting in line with the UNMISS RBB [Results Based Budget Deliverables], and programmatic support provided to the CMAP will be undertaken by the Programme Officer (P3), with support from the National Public Information Officer (LICA).

29. The Applicant also argues that the Administration singled out her post when she is the only staff member having made a claim of retaliation. The Respondent rebuts this by pointing out that the Applicant is the only P-4 running a small team of two personnel, as compared to two P-3s who supervised teams of 15 and 11; that another P-4 post was abolished in December 2024; and that resizing “aligns the management of each team (programme, operations and support services) at the P-3 level, under a P-4 HPU.”

30. The Tribunal, therefore, finds that the Applicant has failed to establish “serious and reasonable doubts about the lawfulness of the contested decision”. *Hepworth*, UNDT/20090/030, para. 10 and *Corcoran*, UNDT/2009/071, para.

4545; *Berger* UNDT/2011/134, para. 10; *Chattopadhyay* UNDT/2011/198, para. 31.

31. Having not found the threshold requirement of *prima facie* unlawfulness, there is no need to further examine the other cumulative requirement issues of urgency or irreparable harm.

### **Conclusion**

32. In light of the above, the application for suspension of action is Denied.

*(Signed)*

Judge Sean Wallace

Dated this 23<sup>rd</sup> day of July 2025

Entered in the Register on this 23<sup>rd</sup> day of July 2025

*(Signed)*

Wanda L. Carter, Registrar, Nairobi