



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2025/104
Order No.: 172 (NBI/2025)
Date: 30 September 2025
Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

RUKAMBE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER PURSUANT TO ARTICLES 19
AND 36 OF THE UNDT RULES OF
PROCEDURE (VILLAMORAN)**

Counsel for Applicant:

Julia Kyung Min Lee, OSLA

Counsel for Respondent:

AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a Senior Electoral Officer with the United Nations Mission in South Sudan (“UNMISS”) based in Juba.
2. Minutes before midnight on 29 September 2025, he filed an application requesting the Tribunal to suspend, pending management evaluation, a decision not to renew his temporary appointment beyond its expiration on 30 September 2025 (“the contested decision”) that is currently pending before the Management Advice and Evaluation Section.
3. The Applicant moves the Tribunal, in keeping with the principles enunciated in *Villamoran* UNDT Order No. 171 (NY/2011), to grant an interim order extending his employment beyond 30 September 2025, strictly for the purpose of allowing the Tribunal to adjudicate the SOA application should the case not be determined before the separation date.

Considerations

4. Pursuant to art. 19 of the UNDT Rules of Procedure, the Tribunal may at any time issue an order or give any direction which appears to be appropriate for the fair and expeditious disposal of a case and to do justice to the parties. Article 36(1) of the UNDT Rules of Procedure stipulates that all matters that are not expressly provided for in the UNDT’s Rules of Procedure shall be dealt with by decision of the Dispute Tribunal on the particular case, by virtue of the powers conferred on it by art. 7 of its Statute.
5. In *Villamoran* 2011-UNAT-160, para. 43, it was held that,

Where the implementation of an administrative decision is imminent, through no fault or delay on the part of the staff member, and takes place before the five days provided for under Article 13 of the Rules of Procedure of the UNDT (UNDT Rules) have elapsed, and where the UNDT is not in a position to take a decision under Article 2(2) of the UNDT Statute, i.e. because it requires further information or time to reflect on the matter, it must have the discretion to grant a suspension of action for these five days. To find otherwise would render Article 2(2) of the UNDT Statute and

Article 13 of the UNDT Rules meaningless in cases where the implementation of the contested administrative decision is imminent.

6. This principle was reaffirmed in *Nwuke* 2012-UNAT-230, para. 34.
7. In the present case, the Applicant submits, *inter alia*, that the imminent nature of implementation of the contested decision is sufficient to require a *Villamorán* Order to suspend the contested decision pending a decision on this SOA application for the following reasons:
 - a. He was first informed of the non-renewal decision on 19 August 2025 via phone call while he was on certified sick leave recovering from a workplace injury. The decision memorandum of 29 August 2025, which was not shared with him, suggests that the decision had not been taken by UNMISS leadership at the time he received the phone call.
 - b. On 29 August 2025, a memorandum updating on the liquidity crisis seemingly removed the necessity for the contested decision.
 - c. On 1 September 2025, while he was still on certified sick leave, he received written notice of the contested decision.
 - d. On 11 September 2025, the UNMISS budget for 2025-26 was released which demonstrated to him that the justifications provided for the decision did not correspond with the facts.
 - e. He filed an intake with the Office of Staff Legal Assistance as soon as he possibly could while on certified sick leave.
 - f. The timing of the decision is such that even if he had filed for suspension of action on the day he was first informed of the decision, he would still have been separated prior to expiry of the 45-day deadline for management evaluation response. As a result, the matter was urgent from that date.

g. In the circumstances, with initial oral information, delayed written notice, later release of contradictory information, this is not a case where the clear urgency can be considered self-created.

8. The Tribunal considers this to be an appropriate case to grant a *Villamoran* Order so that it may have time to make a reasoned decision on the Applicant's SOA application. A Sick Leave Certification Request (Annex 5) indicates the date of the Applicant's initial absence as 17 August 2025, with a post review date of 17 September 2025 intended to determine the date of the Applicant's return to normal duties. This was compounded by the uncertainty over whether the contested decision would be effected given the conflicting evidence set forth in the draft 2026-27 Staffing justification for the UNMISS Electoral Affairs Division (Annex 9). The Applicant avers that the Principle Electoral Affairs Officer submitted a budget proposal on 11 September 2025 that reflects no restructuring and contains 67 authorized positions including that of the Applicant.

9. The Tribunal is not in a position to take a decision at this point because it requires further information from the Respondent and time to reflect on the matter. Therefore, it is just for the Tribunal to exercise its discretion to grant a suspension of action for no more than five days.

Conclusion

10. In view of the foregoing, it is ORDERED THAT:

- a. The Applicant's request for a suspension of the contested decision pending the art. 13 SOA proceedings is granted.
- b. The implementation of the contested decision is suspended for no more than five days, that is, until **Monday, 6 October 2025**.

c. The Respondent shall file a reply to the SOA application by or before **12:00 noon. (Nairobi time), tomorrow, Wednesday, 1 October 2025.**

(Signed)

Judge Sean Wallace

Dated this 30th day of September 2025

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

(Signed)

Wanda L. Carter, Registrar, Nairobi