

UNDT/2009/007, Rees

UNAT Held or UNDT Pronouncements

UNDT held that the application was receivable because the time limit for management evaluation had not yet expired and management evaluation was still pending. UNDT took note of the findings of the JAB Panel, which recommended suspension of action following the Applicant's request to this end dated 22 June 2009, and of the Deputy Secretary-General's memorandum by which such suspension was granted. UNDT noted that both the Panel and the Secretary-General came to the conclusion that the questioned decision was *prima facie* unlawful and that the Applicant's reassignment, if implemented, would cause irreparable damage to her professional reputation and career prospects. Based on the information and documents available before it, the UNDT was of the view that the factual elements of the case remained essentially unchanged since 30 June 2009 and held that the conditions of *prima facie* unlawfulness of the decision at issue and irreparable harm in case of its implementation were founded for the purposes of a request for suspension of action. Regarding the particular urgency requirement, UNDT noted that the implementation of the impugned decision had been suspended until 12 August 2009, by virtue of the Deputy Secretary-General's decision of 30 June 2009. It results that, on the very date the application was submitted to the Tribunal and the Tribunal examined it, the Administration was already in a position to implement the contested decision. UNDT accordingly held that its implementation appeared imminent. UNDT decided that the implementation of the decision in question in the present case be suspended until the completion of management evaluation. UNDT also expressed its expectation that, unless there is a fundamental change in the overall circumstances of the case, the contested decision should not be implemented as long as the mediation efforts are underway.

Decision Contested or Judgment/Order Appealed

The Applicant requested suspension of the decision to remove her as coordinator of the Women's Rights and Gender Unit and reassign her to undertake thematic

research and advocacy on the issue of sexual orientation and human rights.

Legal Principle(s)

Three cumulative conditions must be fulfilled for a suspension of action request to be granted: (1) the decision appears prima facie to be unlawful; (2) it concerns a matter of particular urgency; and (3) the implementation of the decision would cause irreparable damage to the concerned staff member.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Rees

Entity

OHCHR

Case Number(s)

UNDT/GVA/2009/44

Tribunal

UNDT

Registry

Geneva

Date of Judgement

13 Aug 2009

Duty Judge

Judge Cousin

Language of Judgment

French

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Applicable Law

Staff Rules

- Rule 11.2

UNDT Statute

- Article 2.2
- Article 8.1

Related Judgments and Orders

2012-UNAT-266