

UNDT/2011/158, Applicant

UNAT Held or UNDT Pronouncements

At this stage, the Applicant's allegations are assertions that are not adequately supported by evidence. Outcome: Dismissal of the application.

Decision Contested or Judgment/Order Appealed

The Applicant requests the suspension of the decisions of the Chief of Human Resources, United Nations Economic and Social Commission for Asia and the Pacific ("ESCAP"), Bangkok, and a Medical Officer, ESCAP, by which she alleged that they have compelled her to undergo "a medical evaluation as a result of/or based on undisclosed adverse comments".

Legal Principle(s)

The essential components governing an application for suspension of action. The application must include the following: (a) There must be a decision articulated with clarity and precision in the application so that the Judge is clear about which decision is required to be suspended (see also the United Nations Appeals Tribunal's Judgment in Planas 2010-UNAT-049); (b) There must be an ongoing management evaluation concerning the decision in question; (c) The application should contain a concise statement of the relevant facts which are intended to assist the Judge in determining whether the decision in question appears to be prima facie unlawful, whether there is particular urgency and whether its implementation would cause irreparable damage; (d) The Dispute Tribunal may, but is not obliged to, hear evidence and if it does so, such evidence should be confined to the clarification of the issues relevant to an application under art 2.2 of the Statute; (e) The presentation of an application for a suspension of action is not a dress rehearsal for any subsequent application on the merits of the decision; (f) Given the urgent nature of such applications and the need for an expeditious consideration, it is unhelpful for

parties to raise obtuse technical points or to otherwise create complications to what was intended to be a simple procedure to prevent what may appear to be an injustice and to give management an opportunity to review the decision before its implementation takes effect (see also Dougherty UNDT/2011/133, para 26). Prima facie unlawfulness. The Applicant has to satisfy the test that the decision appears prima facie to be unlawful. In other words, does it appear to the Tribunal that, unless it is satisfactorily rebutted by evidence, the claim of unlawfulness will succeed?

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Applicant

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2011/069

Tribunal

UNDT

Registry

New York

Date of Judgement

7 Sep 2011

Duty Judge

Judge Meeran

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Prima facie unlawfulness

Applicable Law

UNDT Statute

- Article 2.2

Related Judgments and Orders

UNDT/2011/133

2010-UNAT-049