

UNDT/2011/190, Osmanli

UNAT Held or UNDT Pronouncements

The Tribunal found that the application was receivable. The contested decision had not yet been implemented, as the head of the department had simply communicated by phone his selection to the successful candidate and the latter had merely sent an email expressing his “great interest” in the job. The Tribunal found that this did not amount to an official offer by the Administration followed by an unconditional acceptance by the candidate. The Tribunal considered that the impending appointment of the successful candidate conferred urgency to the matter; that the contested decision, if implemented, could cause harm to the Applicant’s professional reputation and legitimate career prospects, which, in the circumstances of the case, may amount to irreparable damage; and that at least some of the Applicant’s allegations, which have not been rebutted by the Respondent, might raise serious and reasonable doubts about the lawfulness of the selection decision. Receivability of suspension of action application in appointment/promotion cases: Article 10.2 of the Statute and its restrictions, which only apply to requests for interim measures during the proceedings before the Tribunal, not at the management evaluation stage, is not applicable in the present case since the Applicant sought suspension of action pending management evaluation pursuant to art. 2.2 of the Statute. Implementation of a decision: Suspension of action is only possible regarding decisions which have not yet been implemented. For a selection decision to be implemented, an employment offer from the Organization and its unconditional acceptance by the selected candidate are, at least, required. Outcome: Judgment in favour of applicant in full

Decision Contested or Judgment/Order Appealed

The Applicant filed an application for suspension of action pending management evaluation of the selection decision for a post.

Legal Principle(s)

N/A

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Osmanli

Entity

UNICEF

Case Number(s)

UNDT/GVA/2011/071

Tribunal

UNDT

Registry

Geneva

Date of Judgement

9 Nov 2011

Duty Judge

Judge Laker

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Irreparable damage

Particular urgency

Prima facie unlawfulness

Applicable Law

Administrative Instructions

UNDT RoP

- Article 13

UNDT Statute

- Article 10.2
- Article 2.2

Related Judgments and Orders

2010-UNAT-005

2010-UNAT-011

2010-UNAT-041

2011-UNAT-120

UNDT/2009/071

UNDT/2011/122

UNDT/2011/126

UNDT/2011/134

UNDT/2011/167