

# **UNDT/2012/132, Jahnsen Lecca**

## **UNAT Held or UNDT Pronouncements**

Application for suspension of action pending management evaluation in disciplinary matters: It is clear from a plain reading of article 2.2 of the Tribunal's Statute, article 13.1 of its Rules of Procedure and staff rule 11.2 that the two former provisions apply only where management evaluation is required. In the instant case, the contested decision is a disciplinary measure which can be challenged before the Tribunal without first seeking management evaluation. Thus, the Tribunal cannot rely on these provisions to order the requested suspension of action pending management evaluation. Interim measures in disciplinary matters: It follows from article 10.2 of the Tribunal's Statute and staff rule 9.6 that, where a staff member files an application before the Tribunal to challenge an administrative decision, he/she may seek an interim order from the Tribunal suspending the implementation of the contested decision. However, such suspension is explicitly excluded in cases of termination. In this case, the contested decision is a measure of termination within the meaning of staff rule 9.6, and the Applicant has not filed an application to challenge the merits of this decision.

## **Decision Contested or Judgment/Order Appealed**

By letter of 13 August 2012 which the Applicant received on 27 August 2012, she was notified of the decision of the Secretary-General to impose on her, with immediate effect, the disciplinary measure of separation from service with compensation in lieu of notice and with termination indemnity. Also on 27 August 2012 the Applicant requested the Tribunal to order suspension of action on this decision. The UNDT considered that neither articles 2.2 of the Tribunal's Statute and 13.1 of its Rules of Procedure on the one hand, nor article 10.2 of the Statute on the other hand allowed for the granting of the suspension of action on the contested disciplinary measure in this case, and it accordingly rejected the application.

## Legal Principle(s)

N/A

## Outcome

Dismissed as not receivable

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Jahnsen Lecca

## Entity

ICTY

## Case Number(s)

UNDT/GVA/2012/071

## Tribunal

UNDT

## Registry

Geneva

## Date of Judgement

3 Sep 2012

## Duty Judge

Judge Cousin

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Suspension of action / interim measures

Receivability

## Applicable Law

Staff Rules

- Rule 11.2
- Rule 9.6

UNDT RoP

- Article 13.1

UNDT Statute

- Article 10.2
- Article 2.2