

# UNDT/2012/156, Vivarie

## UNAT Held or UNDT Pronouncements

Receivability of application for suspension of action pending management evaluation: It results from article 2.2 of the Tribunal's Statute that the Tribunal is not in a position to rule on an application for suspension of action, pending management evaluation, on a decision, if copies of the decision in question or the request for management evaluation have not been submitted. Compliance with orders: A party to a proceeding has a duty to comply with an order of the Tribunal and particularly an interlocutory case management order pursuant to Article 19. To persist in disobeying such orders despite full explanations being provided as to their purpose will risk the claim or the response, as the case may be, being struck out.

## Decision Contested or Judgment/Order Appealed

The Applicant filed an application for suspension of action whereby he challenged a UNHCR internal memorandum, explaining that it was likely to result in his separation from service. However, he did not specify the provisions under which he was seeking suspension of action. The Tribunal found that no interim relief could be ordered either under article 2.2 or article 10.2 of its Statute. Although the Applicant was asked three times, including once by order, to transmit a copy of the contested decision as well as of his request for management evaluation, he failed to do so. No suspension of action could thus be examined/ordered under article 2.2. Further, as no application on the merits under article 2.1 had been filed by the Applicant, no interim relief could be examined/ordered under article 10.2. The Tribunal accordingly dismissed the application by summary judgment.

## Legal Principle(s)

N/A

## Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Vivarie

Entity

UNHCR

Case Number(s)

UNDT/GVA/2012/080

Tribunal

UNDT

Registry

Geneva

Date of Judgement

22 Oct 2012

Duty Judge

Judge Cousin

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Irreparable damage

Particular urgency

Prima facie unlawfulness

Receivability

Applicable Law

UNDT RoP

- Article 9

UNDT Statute

- Article 10.2
- Article 2.2

Related Judgments and Orders

UNDT/2010/148

UNDT/2012/147