

UNDT/2012/157, Wand

UNAT Held or UNDT Pronouncements

Administration's withdrawal of unlawful individual administrative decisions which created rights: Staff rule 11.2 not only permits but actually requires the Administration to revoke an administrative decision that it considers unlawful. However, the power to revoke decisions conferring rights should necessarily be exercised within the relevant time frame to respond to a request for management evaluation. Irreparable damage: Where the injury alleged is only hypothetical, it may not be regarded as "irreparable" within the meaning of article 2.2 of the Statute in the context of an application for suspension of action.

Decision Contested or Judgment/Order Appealed

On 15 June 2012, the High Commissioner appointed the Applicant to a determined post. Shortly thereafter, an unsuccessful candidate requested management evaluation of the appointment decision, and the Deputy High Commissioner eventually decided to revoke this decision on 11 October 2012. The Applicant filed an application for suspension of action, pending management evaluation, on the decision of 11 October 2012. The UNDT found that the Deputy High Commissioner had until 17 September 2012 at the latest to revoke the decision of 15 June 2012 if he considered that it was illegal. Consequently, his decision of 11 October 2012 appeared prima facie unlawful for failure to respect the relevant time limit to revoke the decision of 15 June 2012. However, the UNDT further found that the Applicant's alleged injury was only hypothetical and that, therefore, the application did not meet the requirement of irreparable damage. It accordingly rejected the application for suspension of action.

Legal Principle(s)

N/A

Outcome

Dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Wand

Entity

UNHCR

Case Number(s)

UNDT/GVA/2012/086

Tribunal

UNDT

Registry

Geneva

Date of Judgement

24 Oct 2012

Duty Judge

Judge Cousin

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Suspension of action / interim measures

Irreparable damage

Prima facie unlawfulness

Applicable Law

Other UN issuances (guidelines, policies etc.)

- UNHCR IOM/FOM 034/2009

Staff Rules

- Rule 11.2

UNDT Statute

- Article 2.2

Related Judgments and Orders

UNDT/2012/141