

080 (GVA/2024), Jane Wambugu

UNAT Held or UNDT Pronouncements

As indicated by the Respondent in his reply, the selected candidate signed the letter of appointment and assumed her functions on 19 June 2024. She further completed the onboarding formalities on 24 June 2024. Consequently, the Tribunal finds that it can no longer entertain the instant application, which was filed on 28 June 2024, thus after the contested decision has been implemented. Granting an injunction would require reversing the onboarding of the selected candidate, which it clearly cannot do.

Decision Contested or Judgment/Order Appealed

The Applicant requests suspension of action, pending management evaluation, of the decision not to select her for the position of Programme Officer (P-3) in Pretoria, South Africa.

Legal Principle(s)

Art. 2.2 of the Tribunal's Statute provides that the Tribunal shall be competent to suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage. These three requirements are cumulative. In other words, they must all be met in order for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant. It is well-established in the jurisprudence of the Dispute Tribunal that if a contested decision has been implemented, suspension of action cannot be granted.

Outcome

Suspension of action denied

Full order

[Full order](#)

Individual Party

Jane Wambugu

Entity

UNHCR

Case Number(s)

UNDT/GVA/2024/025 (Wambugu, Jane)

Tribunal

UNDT

Registry

Geneva

Date of Order

4 Jul 2024

Duty Judge

Judge Sun

Language of Order

English

Appeal Status

Appealed

Issuance Type

Order

Categories/Subcategories

Suspension of action

Interlocutory or interim appeal / Appeal of UNDT order to UNAT

Applicable Law

UNDT Statute

- Article 2.2