

Introduction

1. The Applicant was a Programme Management Assistant at the UN level working with the Political Affairs Division of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) in Kisangani¹

2. By an application filed on 28 June 2019, which was registered as Case No. UNDT/NBI/2019/093, the Applicant contests the decision by MONUSCO to abolish his post and dry cut his Fixed Term Appointment (FTA).²

Facts

3. On 2 April 2019, the Applicant received notice from the MONUSCO Human Resources Section informing him that his FTA would not be extended beyond 30 June 2019³. Additionally, the Applicant was informed that the Human Resources Section was going to commence his separation process and thus, he was advised to commence his checkout⁴ so as to leave on 30 June 2019.

4. Following this notice, on 13 May 2019, the Applicant requested management evaluation of the decision to separate him and received an unfavorable response on 19 June 2019⁵.

Submissions

Applicant's submissions

5. The Applicant submits that the decision to abolish his position was taken arbitrarily and that this constituted an abuse of power by MONUSCO. He maintains that there is no General Assembly decision for the closure of MONUSCO office

¹ Application, section I

² Application, section V

³ *ibid*

⁴ Application, section VIII

⁵ Application, section VI, Application, Annex 3

Kisangani where he was based and no General Assembly decision adopting the 2019/2020 draft budget for MONUSCO or the abolition of his post. The Applicant additionally submits that he will suffer irreparable harm as he has no other job or income. He prayed the Tribunal to determine his matter urgently as his contract was to end on 30 June 2019.

Considerations

6. The Tribunal is aware that the Applicant is self-represented and evidently disadvantaged in bringing this application without legal assistance. There are many flaws with this Application.

7. Firstly, the application is unsigned and the Applicant's physical location is such that he cannot appear physically before the Tribunal to perfect it. The failure by the Applicant to sign the instant Application renders it incomplete. Further, although unspecified, the Application is brought in the form of a merits application.

8. To further confuse and compound this matter, the relief sought by the Applicant is that the Tribunal urgently review and reverse

11. Even though the Tribunal is minded to consider that access to justice is an issue in this case and that the Applicant has submitted a most confused and unclear application because he did not have legal assistance, bare compliance with the law cannot be jettisoned.

12. The Appeals Tribunal has stressed that in determining whether there was particular urgency, the UNDT should explicitly address the issue of whether the Applicant acted diligently. When an Applicant for suspension of action has failed to act timeously in approaching the Tribunal, the criterion of particular urgency cannot be met.

13. The Applicant received a negative response to his request for interim evaluation on 19 June 2019 and yet he did not seek an order for interim measures until Friday, 28 June 2019, which was effectively his separation date, being the last working day of June 2019. The Application fails on the prerequisite of particular urgency because the urgency in this case is self-created. The applicable rule here is that Equity aids the vigilant, not the indolent.

14. In adjudicating an application on the merits, the Tribunal is guided by art. 9 of the UNDT Rules of Procedure, which states that:

A party may move for summary judgement when there is no dispute as

