



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2013/71  
Order No.: 243 (NBI/2013)  
Date: 31 October 2013  
Original: English

---

**Before:** Judge Vinod Boolell  
**Registry:** Nairobi  
**Registrar:** Abena Kwakye-Berko, Acting Registrar

LAURENTI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

---

DECISION ON AN APPLICATION FOR  
SUSPENSION OF ACTION

---

**Counsel for the Applicant:**  
George Irving

**Counsel for the Respondent:**  
Steven Dietrich, ALS/OHRM  
Nicole Wynn, ALS/OHRM

## **The Application and Procedural History**

1. The Applicant in the present case holds a permanent appointment at the D1 level. He currently serves as Director of the Programme Planning and Technical Cooperation Division (PPTCD), in the Economic and Social Commission for Western Asia (ESCWA).

2. On 24 October 2013, the Applicant filed an Application for Suspension of Action with the United Nations Dispute Tribunal (UNDT) in Nairobi seeking a suspension of the decision by the Executive Secretary of ESCWA to designate the Deputy Executive Secretary of ESCWA (Deputy ES), as the head of the UN Evaluation Group (UNEG) Unit and the Strategic Direction and Partnership Section (SDPS) and to remove evaluation functions from PPTCD (impugned decision).

3. The impugned decision was communicated to the Applicant on 14 October 2013.

4. The Applicant sought management evaluation of the impugned decision on 23 October 2013.

5. The Respondent filed his Reply to the Application on 28 October 2013. The Tribunal served the Respondent's Reply on the Applicant on the same day and directed that any submissions in response to the Reply must be filed on the same day. The Applicant filed his submissions in response to the Respondent's Reply later that day.

## **Submissions**

6. The Applicant contends that evaluation was an integral function of his division, and that UNEG comprises directors of divisions who oversee evaluation in



announcing the decision to the Applicant. Further, the implementation of the decision must be seen as part of an on-going policy directive on functions of a continuing nature.

12. The Applicant informs the Tribunal that as at 29 October 2013, the PPTCD was still being asked to participate and provide current information on evaluation, which is inconsistent with the Respondent's submissions on receivability.

### **Deliberations**

13. Applications for suspension of action are governed by article 2 of the Statute of the United Nations Dispute Tribunal ("the Tribunal") and article 13 of the Tribunal's Rules of Procedure. The three statutory prerequisites contained in art. 2.2 of the Statute, i.e. prima facie unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted. Under art. 13.3 of the UNDT Rules, the Tribunal has five working days from the service of an application on the respondent to consider an application for interim measures.

14. A suspension of action order is, in substance and effect, akin to an interim order of injunction in national jurisdictions. It is a temporary order made with the purpose of providing an applicant temporary relief by maintaining the *status quo* between the parties to an application pending trial. It follows, therefore, that an order for suspension of action cannot be obtained to restore a situation or reverse an allegedly unlawful act which has already been implemented.

15. Before entering into a discussion on whether the Applicant has met the test for the injunctive relief that is sought, the Tribunal must determine whether or not the impugned decision has been implemented.

16. In the circumstances of the present case, the Tribunal finds the situation to be opaque at best. Whereas the Respondent claims that the impugned decision was



22. On the other hand, by removing responsibilities from the Applicant the Respondent has cast a shadow over the Applicant and his Division and created the appearance of the Applicant no longer being the appropriate person to fu1denc.8(ovinhc37)Tj14.ovis0(/90

