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Case No.: UNDT/NBI/2015/019

Order No.:

UNITED NATIONS DISPUTE TRIBUNAL

## **Introduction**

1. The Applicant is a Transport Assistant in the Transport Section at the United Nations Assistance Mission for Iraq (UNAMI). He serves at the GL4 level on a fixed-term appointment.
2. On 13 January 2015, he filed an Application for Suspension of Action, pending management evaluation in respect of a decision by the UNAMI Chief of Mission Support (CMS) and the Chief of Administrative Services (CAS) to terminate his appointment.
3. The Respondent filed a Reply to the Suspension of Action Application on 14 January 2015. He appended the Management Evaluation Unit's response to the Applicant's request for management evaluation dated 12 January 2015.

## **Facts**

4. In June 2014, UNAMI in cooperation with the Department of Field Support ("DFS") at United Nations Headquarters undertook a comprehensive Civilian Staffing Review (CSR) exercise. As a result of the CSR exercise, UNAMI decided to abolish a number of positions under the UNAMI Security Section, Mission Support and the substantive sections
5. On 3 December 2014, the Applicant received a letter from the UNAMI CMS notifying him that based on his ranking by the Comparative Review Panel, the Mission was not "in a position to retain [him] in 2015".
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## **Considerations**

9. Applications for suspension of action are governed by arts. 2.2 and 10.2 of the Statute of the Dispute Tribunal and arts. 13 and 14 of the Tribunal's Rules of Procedure.

10. Article 2.2 governs applications for suspension of actions pending management evaluation whereas art. 10.2 governs, inter alia, suspensions of action at any time during the proceedings.

11. The three statutory prerequisites contained in the Statute for the grant of the interim relief of suspension of action, that is, *prima facie* unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted where the contested decision is the subject of a management evaluation.

12. The three statutory prerequisites contained in art. 2.2 of the Statute, that is, *prima facie* unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted where the

the limits and prohibitions established by the Statute since, otherwise, the legislative texts, spirit, and goals underlying them would be ignored or violated<sup>4</sup>.

16. In the present case, the Tribunal notes that the management evaluation was completed on 12 January 2015, thus rendering moot this Application for suspension of action.

### **Conclusion**

17. In view of the foregoing, the Application for suspension of action is rejected.

*(Signed)*

Judge Nkemdilim Izuako

Dated this 20<sup>th</sup> day of January 2015

Entered in the Register on this 20<sup>th</sup> day of January 2015

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi

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<sup>4</sup> *Igbinedion* 2011-UNAT-159 at para. 20.