

Case No.: UNDT/NBI/2019/125

Order No.: 128 (NBI/2019)

BIBLIOTHECA

**Before:** Judge Agnieszka K...

**Registry:** Nairobi

**Registrar:** Abena Ky...

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**Counsel for the Applicant:**  
Self-represented

**Counsel for the Respondent:**  
AAS/ALD/OHR

## **Introduction**

1. The Applicant is a staff member of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). He serves on a on fixed-term appointments (FTA) as Heavy Vehicle Operators at the GL-3/10 level in Entebbe, Uganda,

2. On 29 May 2019, the MONUSCO Chief Human Resources Officer (CHRO) informed the Applicant that his post had been proposed by the Secretary-General for abolition and thus, his FTA would not be renewed beyond 30 June 2019 because his post was being subjected to a “dry cut”.

3. The Applicant wrote to the Management Evaluation Unit (MEU) requesting suspension of action and management evaluation of the non-renewal decision on 14 June 2019. On 19 June, MEU informed the Applicant that his request for suspension of action pending management evaluation was under consideration and that a decision would be made in “due course”. MEU further informed the Applicant that the management evaluation in his case would be completed no later than 29 July 2019.

4. On 21 June 2019, the Applicant filed an application for suspension of action pending management evaluation with the United Nations Dispute Tribunal (UNDT) in Nairobi challenging MONUSCO’s decision not to renew his FTA beyond 30 June 2019 due to the proposed abolition of his post in the mission’s 2019-2020 budget proposal.

5. The Tribunal, having taken note of the fact that the mission’s 2019-2020 budget proposal was still pending approval by the General Assembly, granted the Applicant’s request for suspension of action by its Order No. 083 (NBI/2019) dated 27 June 2019.

6. The General Assembly approved MONUSCO’s 2019-2020 budget 6(n)19(t) 0.0 0.0 rg 0.999

7. The Applicant received a response to his request for management evaluation from the Under-Secretary-General for Management Strategy, Policy and Compliance on 9 August 2019. The Under-Secretary-General informed him that the decision not to renew his FTA would be upheld.

8. On 15 August 2019, the Applicant filed an application under art. 2.1 of the UNDT Statute challenging the decision by MONUSCO not to renew his FTA due to the abolition of his post. At section IX of the application, the Applicant requests “suspension of the implementation of the contested decision not to renew [his] Fixed Term Appointment” as a remed2.0 T(f)32( )-30(hi)17(s)8( )-10(po)-20(s)8(t)] TJ ET Q q B7

reflecting ‘expressly or by reference all the terms and conditions of employment’ as provided for in Staff Rule 4.1”.<sup>2</sup>

12. In the current case, the Applicant is challenging the non-renewal of his FTA with MONUSCO due to the dry cut/abolition of his post by the General Assembly. The Tribunal is satisfied that the subject matter of the application for interim relief is an appointment decision and therefore falls under the exclusionary clause of art. 10.2 of the UNDT Statute and art. 14 of the Rules of Procedure.

13. In light of the foregoing, the Tribunal is not competent to grant the remedy sought by the Applicant in his application.

### **ORDER**

14. This application for suspension of action is accordingly refused.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated ~~the~~ 11<sup>th</sup> October 2019