

Case No.: UNDT/NBI/2024/055
Order No.: 123 (NBI/2024)

Introduction

1. By application filed on 29 August 2024, the Applicant, a staff member of the Economic Commission for Africa (“ECA”), requests Suspension of Action (“SoA”) of the decision to remove her functions as ascribed in her job description and her

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or delay on the part of the staff member; therefore, the *Villamorán* order is possible only if there is an urgency that was not created by the Applicant herself., in the instant case, the challenged decision is on 12 Aug 2024 (when the Executive Secretary, through a memo, notified the Applicant of her lateral reassignment to the Division of Administration effective 1 Sep 2024), and the Applicant lodged the complaint with the Tribunal (including the request for a *Villamorán* order) only on 28 August 2024, only a few days away the date of effectiveness of the challenged decision.

17. As to the requested suspension of the implementation of the challenged administrative decision during the pendency of management evaluation, the Applicant challenged the decision to remove functions ascribed in her Terms of Reference (“ToRs”) and the subsequent reassignment to Division of Administration, ECA.

18. The Tribunal notes that the Applicant has been reassigned to a different position and that there is no removal of functions; in addition, the Respondent himself acknowledges that there is no decision to remove the functions ascribed in the Applicant’s ToR and therefore those functions are still in force.

19. For this part, therefore, the application is not receivable, on the presupposition that Applicant’s ToRs remain the same for the new functions.

20. 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.

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