Case No.: UNDT/NY/2013/098

Order No.: 180 (NY/2013) Date: 29 July 2013



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any comments on the draft that was circulated on 21 June 2013 by the previously referred deadline of 4 July 2013.

- 10. On 11 July 2013, ST/SGB/2011/6/Rev.1 was issued.
- 11. The following day, on 12 July 2013, the revised bulletin was distributed to staff members through the United Nations internal website iSeek.
- 12. The same day, on 12 July 2013, the Applicant filed a request for management evaluation with the Management Evaluation Unit ("MEU").
- 13. On 22 July 2013, the Applicant filed the present application for a suspension of action, which was transmitted to the Respondent the following day. The Respondent was instructed to submit his reply by 12 p.m. on 25 July 2013.
- 14. On 24 July the MEU rejected the request for management evaluation on

- c. The Applicant has submitted a request for management evaluation of the contested decision, which evaluation is currently pending;
- d. The impugned administrative decision appears *prima facie* to be unlawful;
- e. The case is of particular urgency; and
- f. Its implementation would cause irreparable damage.
- 21. The Tribunal notes that the 12 July 2013 request for management evaluation describes the administrative decision to be evaluated as

the refusal of management to comply with the request of staff representatives to refer Management's proposed amendment of ST/SGB/2006/1 to full discussion at SMC or mediation, in accordance with existing procedures prescribed in the ST/SGB/2006/11, prior to implementation (promulgation of the amendment).

22. Furthermore, as part of her request for management evaluation, the Applicant sought the following remedy:

Immediate suspension of the issuance of any amendments to ST/SGB/2011/6 and confirmation from Management that it would submit the proposed changes for discussion at the next [SMC] or for mediation.

23.

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29. The Tribunal notes that ST/SGB/2009/4 (Procedures for the promulgation of administrative issuances) states:

Section 1

Categories of administrative issuances

- 1.1 In accordance with the provisions of the present bulletin, the following administrative issuances may be promulgated:
 - (a) Secretary-General's bulletins;
 - (b) Administrative instructions.

...

Section 2

Entry into force and effect of administrative issuances

- 2.1 Administrative issuances shall enter into force upon the date specified therein and shall remain in force until superseded or amended by another administrative issuance of the same or higher level and promulgated in accordance with the provisions of the present bulletin.
- 30. The Tribunal considers that since

of the [SMC]; and (b) not to refer the proposed amendments of ST/SGB/2011/6, *Staff Management Committee*, to "full discussion at the SMC or mediation in accordance with existing procedures prescribed in the ST/SGB/2011/6, prior to implementation ..." were considered not receivable.

- 33. The management evaluation request was made regarding "the refusal of management to comply with the request of staff representatives to refer Management's proposed amendment of ST/SGB/2006/1 to full discussion at SMC or mediation, in accordance with existing procedures prescribed in the ST/SGB/2006/11, prior to implementation (promulgation of the amendment)", whereas the contested decision in the application for suspension of action is "the implementation of ST/SGB/2011/6/Rev.1, including the issuance of any further policy changes under the revised procedure…".
- 34. Article 13 of the Tribunal's Rules of Procedures states that only a decision which is subject to an ongoing management evaluation can be suspended.
- 35. Based on a review of her applications, the Tribunal considers that the contested decision put forward before it by the Applicant is different from the one for which she sought management evaluation.
- 36. As for the contested decision which is the subject of the application for suspension of action before the Tribunal whereby the Applicant requests the suspension of the implementation of ST/SGB/2011/6/Rev.1, there is no evidence that the Applicant has submitted a request for management evaluation of this specific decision. The management evaluation request was made regarding "the refusal of management to comply with the request of staff representatives to refer Management's proposed amendment of ST/SGB/2006/1 to full discussion at SMC or mediation, in accordance with existing procedures prescribed in the ST/SGB/2006/11, prior to implementation (promulgation of the amendment)".
- 37. Seeing that in the present case the administrative decision is already implemented and there is no management evaluation request currently pending, there