		Case No.:	UNDT/NY/2014/066
		Order No.:	309 (NY/2014)
	UNITED NATIONS DISPUTE TRIBUNAL	Date:	12 November 2014
		Original:	English

Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Morten Albert Michelsen, Officer-in-Charge, Registrar

AL-MIDANI

v.

Introduction

1.   On 7 November 2014, the Applicant, a P

4.   The Applicant together with five other candidates applied for the contested position via Job Opening number 14-LAN-DGACM-34787-R-NEW YORK (R) ("the JO") posted on Inspira (an online United Nations job-site) for a posting period of 29 April to 29 May 2014.

5.   Based on their applications, all six candidates were deemed suitable for the Post and shortlisted for interview. Following these interviews, two candidates, including the Applicant, were found not to meet the competency requirements, whilst the four remaining candidates were placed on the recommended list. Eventually, one candidate was recommended for selection as she received the highest rating of the four candidates in all relevant competencies against which the candidates were appraised, namely Professionalism, Planning and Organizing, Technological Awareness and Managing Performance.

6.   By email dated 23 October 2014, the Secretary of the Central Review Committee and Panel confirmed that the Panel endorsed the filling of the JO with the selected candidate and requested that the necessary action be taken to select her for the vacancy.

7.   On 27 October 2014, the selected candidate was informed of her selection for the Post and was requested to confirm her continued interest in and her availability for the Post within five business days.

8.   On the same date, the selected candidate confirmed her interest and availability for the contested position. The Applicant submits that he came to know about the decision not to select him also on this date, apparently as it was indicated on his Inspira webpage that the "Recruitment [was] Completed".

9.   On 29 October 2014, the Applicant filed his request for management evaluation with the MEU, which evaluation is still pending.

10.   On 1 November 2014, according to the information provided by the Applicant in his application, the decision not to select him was implemented, whilst the Respondent, in the reply, contends that this occurred on 27 October 2014.

11.   On 7 November 2014, the Applicant filed the present application.

Consideration

12.   Article 2.2 of the Tribunal's Statute provides that it may suspend the implementation of a contested administrative decision during the pendency of management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The Tribunal can suspend the contested decision only if all three requirements of art. 2.2 of its Statute have been met. This extraordinary discretionary relief is generally not appealable and is intended to preserve the *status quo* pending management evaluation. It is not meant to make a final determination on the substantive claim.

13.   The Applicant contends that the selected candidate does not meet the JO's requirements and that by selecting an unqualified candidate, his and other qualified candidates' rights to a fair and transparent implementation of the staff selection system have been violated, all of whom would suffer irreparable harm.

14.   The Respondent contends, *inter alia*, that the Applicant has failed to show that the decision was unlawful, improperly motivated or otherwise unreasonable, and submits that the selected candidate fully meets the experience and competency requirements of the JO. In particularly, the Respondent contends that the selected candidate having been formally notified, and having accepted her selection and indicating her availability for the position on 27 October 2014, has resulted in the implementation of the selection decision and created a legal obligation upon the Organization to appoint her pursuant to sec. 10.2 of ST/AI/2010/3 (Staff selection

Implementation

Conclusion

23.   The application for suspension of action is dismissed.