

Introduction

1. On 26 October 2018, at 5:27 p.m., the Applicant, a Publishing Assistant at the G-4 level on a fixed-term appointment with the Department for General Assembly in application for suspension of action during management evaluation pursuant to art. 13 of the Dispute

term appointment beyond 31 October 2018, which was notified to him on 8 October 2018 and scheduled to be implemented on 31 October 2018, be suspended pending management evaluation.

2. On 26 October 2018, the case was assigned to the undersigned Judge.

3. On 26 October 2017, at 6.33 p.m., the Registry acknowledged receipt of the application and transmitted it to the Respondent. The Tribunal instructed the Respondent to submit his reply by 4:00 p.m. on Tuesday, 30 October 2018.

4. The Tribunal further informed the parties that, due to the urgency of the matter (the deadline for the implementation of the contested decision being 31 October 2018) and pursuant to arts.

Procedure, the suspension of the implementation of the contested decision pending the consideration of the application for suspension of action under art. 2.2 of the order was to

follow, which is the present Order.

Background

5. In the application for suspension of action, the Applicant submitted as follows regarding the facts to be relied on (references to annexes omitted):

Mr. A Ali joined the DGACM Publishing team in May 2013, launched with the funding provided by the State of Qatar.

8. Articles 13.3, 19 and 36.1 of the Dispute
as follows:

Rules of Procedure state

Article 13 Suspension of action during a management evaluation

3. The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.

Article 19 Case management

The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction

pending the final determination of the present application for suspension of action.

10. The Tribunal ordered that the implementation of the contested decisions be suspended until 5:00 p.m. on 12 July 2011, the deadline for the Tribunal to consider and decide on the application for suspension of action in accordance with art. 13 of the Rules of Procedure. The Respondent appealed the order.

11. In *Villamorán* 2011-UNAT-160, the Appeals Tribunal stated:

36. The Appeals Tribunal has consistently emphasized that appeals against most interlocutory decisions will not be receivable, for instance, decisions on matters of evidence, procedure, and trial conduct. An interlocutory appeal is only receivable in cases where the UNDT has clearly exceeded its jurisdiction or competence [footnote omitted].

43. Where the implementation of an administrative decision is imminent, through no fault or delay on the part of the staff member, and takes place before the five days provided for under Article 13 of the UNDT Rules have elapsed, and where the UNDT is not in a position to take a decision under Article 2(2) of the UNDT Statute, i.e. because it requires further information or time to reflect on the matter, it must have the discretion to grant a suspension of action for these five days. To find otherwise would render Article 2(2) of the UNDT Statute and Article 13 of the UNDT Rules meaningless in cases where the implementation of the contested administrative decision is imminent.

44. The Secretary-submission of an application for a suspension of action does not provide a legally sustainable basis to grant such a suspension, as was

agree that the UNDT should have explicitly addressed this matter,
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46.

a preliminary suspension of five days pending its consideration of the suspension request under Article 13 of the UNDT Rules was properly based on Articles 19 and 36 of the UNDT Rules. We find that

beyond 31 October 2018 shall be suspended until the Tribunal has rendered its decision on this application, or until further order.

(Signed)

Judge Alessandra Greceanu

Dated this 29th day of October 2018