

Introduction

1. On 8 November 2021, the Applicant filed an application for suspension of action requesting the suspension of the “administrative decision to terminate [his] permanent employment with immediate effect after 21 years of service to the Organization”.

2. On 10 November 2021, upon the instructions of the Tribunal, the Respondent replied that the application is not receivable because the contested decision was already implemented on 8 October 2021.

Consideration

3. In accordance with art. 2.2 of the Dispute Tribunal’s Statute and art. 13.1 of the Rules of Procedure, the Tribunal may suspend the implementation of a contested administrative decision during the pendency of management evaluation.

4. For an application for suspension of action to be receivable, a basic requirement is therefore that the relevant decision is yet to be implemented. If the decision, lawful or not, has already been implemented—in a case concerning suspension of action under art. 2.2 of the Dispute Tribunal’s Statute and art. 13.1 of its Rules of Procedure—the Tribunal is not authorized to suspend it, because neither the Statute nor the Rules of Procedure allows the Tribunal to reverse an already implemented contested administrative decision in this context. Instead, if an applicant seeks the Dispute Tribunal to rescind an administrative decision that has already been implemented (or order specific performance), s/he must request this as relief in an application on the merits with reference to art. 10.5(a) of its Statute.

5. In the present case, the Applicant indicates in his application for suspension of action that the contested administrative decision was implemented on 8 October 2021. This information is confirmed by the Respondent in his reply. In line herewith, in the letter of termination dated 8 October 2021, which the Applicant appends to his application, is stipulated that the termination of the Applicant’s appointment was “effective immediately”.

Also, the Respondent submits in evidence a personnel action form dated 9 October 2021 in which next to “Action Type” is indicated “Separation / Termination”.

6. The Applicant argues that his termination is “a decision that has ongoing implementations and legal effect” on his contractual status with reference to *Calvani* UNDT/2009/092. The Tribunal disagrees therewith. Termination is rather a single administrative act by which the Administration decides to end the employment relationship between the staff member and the Organization. In this regard, the Tribunal refers to staff rule 9.1, where “termination of appointment” is listed as one of six circumstances by which a separation from service can be enacted, and also staff rule 9.6, where termination is defined as “a separation from service initiated by the Secretary-General”. Once the termination of a staff member’s appointment has been

