

Introduction

1. On 9 October 2012 the Applicant, a staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), filed an application for suspension of action, pending management evaluation, on the decision of 27 June 2012 to discontinue his post with effect from 1 January 2013.

Facts

2. The Applicant joined UNHCR in 2009. He is currently employed as an

and, on the same day, the Applicant submitted the requested document, which was dated 1 October 2012. As directed by the Tribunal, the Respondent filed his reply on 16 October 2012.

Parties' contentions

7. The Applicant's contentions are:

Prima facie unlawfulness

a. IOM/079-FOM/80/2012 was not submitted to the Joint Advisory Committee for its review and recommendations, as required by inter-office memorandum IOM/FOM No. 01RMMvMFEFSFEuSi-lyY-ççFEiSiylyMvMFErSçlMpYYFEeSivl

(Procedural Guidelines for Changes in Status of Positions) were followed and he was duly notified six months in advance of the discontinuation;

Urgency

d. The Applicant's post will be discontinued effective 1 January 2013, more than two months from the date on which the application was filed;

e. The Applicant was notified of the contested decision on 27 June 2012. If, in fact, there was an element of urgency, the Applicant would have submitted his application earlier;

Irreparable damage

f. The contested decision does not affect the Applicant's contract or employment status. He is not separated from UNHCR and remains eligible to apply for vacant posts as an internal candidate. There is therefore every chance that he will be appointed to another post;

g. The suspension of the contested decision is not the only way to ensure that the Applicant's rights are observed.

Consideration

9. In accordance with article 2.2 of the Tribunal's Statute, the Tribunal may order suspension of action, during the pendency of the management evaluation, on a contested administrative decision where the application for suspension of acyY-ççFE,SiMlp-pFYE SiMlp-

resolution conducted by the Office of the Ombudsman, under conditions specified by the Secretary-General.

11. As per the Tribunal's case law, it results from article 2.2 of the Statute read in conjunction with staff rule 11.2(c) that a request for suspension of action during the pendency of the management evaluation may only be receivable if the request for management evaluation has been submitted in due time (Fetahu UNDT/2011/118, Tetova UNDT/2011/119, Suliqi UNDT/2011/120).

12. In this case, the Applicant was notified of the decision to discontinue his post on 27 June 2012. Under staff rule 11.2(c), he had until 27 August 2012 to submit a request for management evaluation of this decision. Therefore, even assuming that his request for management evaluation was duly submitted to the High Commissioner, it would still be late and his application is therefore irreceivable.

Conclusion

13. In view of the foregoing, the application for suspension of action is rejected.

†