

Parties' Contentions

9. In her comments submitted after having been informed of the extension of her appointment until 30 June 2010, the Applicant argues that her current P-5 status (diplomatic residency) cannot be reinstated except with a one-year extension. Otherwise she will lose her privileges, which would cause her financial damages and family grief. Therefore, the Applicant requests the Tribunal to order a twelve-month extension of her contract.

10. The Respondent, in his reply dated 28 January 2010, requested the Tribunal to declare the application under review to be moot, based on the fact that the Applicant's fixed-term appointment had been extended until 30 June 2010.

Considerations

11. The Applicant submitted her request for management evaluation to MEU on 26 January 2010. Since MEU has not yet provided a reply on the matter and the statutory 45-day time limit for such a review to be conducted is still running, the procedure is at the management evaluation stage. Consequently, the present application may only be considered as a request for suspension of action under article 2, paragraph 2, of the Tribunal's statute, which reads:

“The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage ...”

12.

June 2010. By so doing, the Organization overruled the original challenged decision. Hence, the latter no longer has any effect on the Applicant's rights and status as a staff member and the present application has become moot.

14. The Applicant's last request that the Tribunal should order a twelve-month extension of her contract, exceeds the powers conferred to the Tribunal in a procedure of suspension of action under article 2, paragraph 2, of the statute. The Tribunal has already explained in UNDT/2009/071, Corcoran, that during the – rather short – pendency of the management evaluation it has the authority only to suspend an administrative decision, and by no means to dictate other kinds of interim measures or somehow modify the contested decision. Furthermore, it is worth recalling that the only purpose of the suspension of action procedure is to preserve the Applicant's rights during the management evaluation. Under no circumstances may it be used to prejudge the case on the merits.

Conclusion

15. For the reasons stated above, the Tribunal DECIDES that:

The application to suspend the implementation of the contested decision during the pendency of the management evaluation is rejected.

(Signed)

Judge Thomas Laker

Dated this 29th day of January 2010

Entered in the Register on this 29th day of January 2010

(Signed)

Víctor Rodríguez, Registrar, UNDT, Geneva