



Introduction

1. On Friday, 28 May 2010, at 5.43 p.m., the United Nations Dispute Tribunal (UNDT) received the first batch of a series of annexes related to an application for suspension of action filed on behalf of the applicant, a staff member of the International Criminal Tribunal for the former Yugoslavia (ICTY). At 6.57 p.m. that day, the Tribunal received the application for suspension of action.

2. The applicant requested the Tribunal to suspend the decision not to extend his fixed-term appointment, which was due to expire on Monday, 31 May 2010.

Facts

3. The applicant entered the service of ICTY in 1995 on a fixed-term appointment (100 series of the former Staff Rules), which was continuously renewed. At the time of this application, he was serving as an intelligence analyst

7. On 13 May 2010, the applicant wrote to the Secretary-General to request a management evaluation of:

- a. the decision not to extend his fixed-term appointment beyond 31 May 2010;
- b.

d.

Considerations

14. The applicant requests the Tribunal to suspend the implementation of the

because of the applicant's own delay. Normally, such an application cannot be successful. This is the situation in the case at hand.

18. The applicant had been informed about the intention to abolish his post in December 2009. He received additional, detailed information in a memorandum dated 18 January 2010. This was followed by a memorandum dated 10 March 2010 informing him that his post would be abolished effective 31 May 2010. His request for a management evaluation was not filed before 13 May 2010, some two weeks before the expiration of his current appointment. The request for suspension of action addressed to the Secretary-General, which was combined with the request for a management evaluation, was rejected by letter dated 18 May 2010. According to the applicant, the decision was sent to him on 20 May 2010 after close of business.

19. The Tribunal notes that the applicant let pass more than one full week before filing his application for suspension of action with the Tribunal. Having received the application on Friday, 28 May 2010 after close of business, the Tribunal could not take any steps on that day. Monday, 31 May 2010 being a holiday at Headquarters in New York, no reply could be sought from counsel for the respondent, namely the Administrative Law Section at the UN Secretariat, before the end of the day, when the applicant's contract was due to expire. The Tribunal could have exceptionally sought a reply from ICTY, but given that it needed to issue an order on the application by the end of the day, it could not have given ICTY sufficient time to prepare a meaningful reply.

20. Asked about the reasons for his late application, the applicant's counsel referred to efforts at informal resolution with the help of the Office of the Ombudsman. Although this approach is appreciated, it may not serve as a justification for not filing an application with the Tribunal in a timely manner. On the contrary, as the issues of the conflict between the parties have been well known for nearly half a year, the applicant should have been able to file his application with the Tribunal as soon as he learned that the Secretary-General had rejected his request for suspension of action.

21. For the reasons stated above, it is DECIDED that:

The application for suspension of action is rejected.

(Signed)

Judge Thomas Laker

Dated this 31st day of May 2010

Entered in the Register on this 31st day of May 2010

(Signed)

Víctor Rodríguez, Registrar, UNDT, Geneva