



Introduction

1. By Order No. 59 (GVA/2010) dated 31 May 2010, the Tribunal rejected the applicant's request for suspension of action on the decision not to extend his fixed-term appointment, which was due to expire on the same day.
2. By application dated 29 June 2010, the applicant purported to seek revision of the above-mentioned order pursuant to article 12.1 of the Tribunal's statute and article 29 of its rules of procedure.

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 his separation on 31 May 2010, he was serving as an intelligence analyst in the Office of the Prosecutor, at the P-3 level.
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8. On Friday, 28 May 2010, after close of business, the applicant filed before the Tribunal an application for suspension of action on the decision not to renew his fixed-term appointment beyond its expiration date on Monday, 31 May 2010.

9. On 31 May 2010, by its Order No. 59 (GVA/2010), the Tribunal rejected the application for suspension of action.

10. On 29 June 2010, the applicant filed the instant application seeking the revision of the above-mentioned Order and his reinstatement.

11. On 9 July 2010, the application for revision was transmitted to the respondent, who submitted his reply on 8 August 2010.

Parties' contentions

12. The applicant's principal contention is that decisive new facts have been discovered subsequent to the Tribunal's rejection of the applicant's request for suspension of action and that these facts justify the revision and reversal of the Tribunal's Order No. 59 (GVA/2010) and the applicant's reinstatement.

13. The respondent's contentions are:

- a. The application is not receivable as there is no legal basis either under the Tribunal's statute or rules of procedure upon which the Tribunal may revise its own orders. Article 12.1 of the statute and article 29 of the rules of procedure allow a party to apply for revision of only an "executable judgment" on the merits, and not interlocutory decisions and orders, such as Order No. 59 (GVA/2010);
- b. Even assuming *arguendo* that the instant application for revision is permissible under the Tribunal's statute and rules of procedure, the applicant can no longer establish his entitlement to a suspension of action pending management evaluation under article 2.2 of the Tribunal's statute, since the contested decision has been implemented and the management evaluation has been completed;

- c. Notwithstanding, should the Tribunal wish to consider the application for revision, the respondent submits, in the alternative,

well as from the combined provisions of articles 2.2, 11.3 and 12.1, that such orders are not open to revision.

17. Accordingly, the instant application for revision of Order No. 59 (GVA/2010), whereby the Tribunal rejected the applicant's request for suspension of action on the decision not to renew his fixed-term appointment, is inadmissible and must be rejected.

18. Even assuming, for the sake of the argument, that the above-mentioned Order is open to revision, which it is not, it would not be possible for the Tribunal to revise it since the contested decision has been fully implemented since 1 June 2010.

19. In fact, what the applicant misguidedly seeks under an application for revision is a decision on the merits of the decision not to renew his fixed-term appointment. The Tribunal notes that, on 29 July 2010, the applicant filed, under article 2.1 of the Tribunal's statute, a substantive appeal against such decision. It is only under these new proceedings, and provided the application meets the receivability criteria set out in article 8 of the Tribunal's statute, that the Tribunal