

Introduction

1.

b. With respect to urgency, she emphasizes that her indefinite appointment would be terminated on 31 May 2014;

c. As regards irreparable damage, she argues that the contested decision to discontinue the position she is encumbering and the consecutive termination of her indefinite appointment would “negatively influence her career and employment conditions”;

d. She further requests that “her name be not made public in case of publication of a decision made by the Tribunal”, in order to “mitigate the impact of having taken the risk to speak up”, a concern which has been shown by the *2011 Global Staff Survey* and “reiterated during the Meeting of the Staff Management Consultative Committee in Budapest this year”.

10. The Respondent’s primary contentions may be summarized as follows:

a. The Deputy High Commissioner has instructed the Director, DHRM, to suspend the implementation of the decision to terminate the Applicant’s appointment, pending his review of the issues raised in the Applicant’s memorandum of 30 April 2014 and her request for management evaluation;

b. Based on the instruction of the Deputy High8436(s)5.28772(i)-9.7843-14.3239(t)meib

management evaluation, of the implementation of a contested administrative decision that is the subject of an on-going 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. It follows from these provisions that an application for suspension of action may only be granted if the contested decision has not yet been implemented and is the subject of an on-going management evaluation. In addition, suspension of action can only be granted until the end of the management evaluation process. Otherwise, the Tribunal would exceed its jurisdiction (see *Igbinedion* 2011-UNAT-159).

13. In the present case, the Applicant is challenging two decisions, namely the discontinuation of the post she is encumbering and the termination of her indefinite appointment. She wrote to the Deputy High Commissioner regarding both decisions on 14 January 2014 and 30 April 2014, respectively. As confirmed

into account that any judicial suspension of action would also necessarily be restricted to the end of the management evaluation process, the Tribunal can only conclude that the Applicant's request for suspension of action has become moot (see also *Gaitan* Order No. 156 (GVA/2013)).

16. It follows that it is not necessary for the Tribunal to examine if the three statutory requirements specified in art. 2.2 of its Statute and art. 13.1 of its Rules of Procedure, namely *prima facie* unlawfulness, urgency and irreparable damage, are met in the case at hand.

Request for confidentiality

17. As regards the Applicant's request that "her name be not made public in case of publication of a decision", the Tribunal is not convinced that the Applicant "displays a greater need than any litigant for confidentiality" (*Servas* Order No. 127 (UNAT/2013) and *Servas* 2013-UNAT-349, para. 25). The Applicant does not demonstrate that her case is of such a nature as to overcome the guiding principle of transparency in judicial proceedings and public rulings before this Tribunal.

Conclusion

18. In view of the foregoing, the Tribunal DECIDES:

- a. The application for suspension of action is moot and there is no need to further decide on the Applicant's request;
- b. The Applicant's request for confidentiality is rejected.

(Signed)

Judge Thomas Laker

Dated this 14th day of May 2014

Entered in the Register on this 14th day of May 2014

(Signed)

René M. Vargas M., Registrar, Geneva