



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2015/016

Order No.: 018 (NBI/2015)

Date: 20 January 2015

Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

HUSSAIN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for the Applicant:

Self represented

Counsel for the Respondent:

Steven Dietrich, ALS/OHRM

Alistar Cumming, ALS/OHRM

Introduction

1. The Applicant is a Movement Control Assistant in the Aviation Section at the United Nations Assistance Mission for Iraq (UNAMI). He serves at the GL4 level on a fixed-

Considerations

9. Applications for suspension of action are governed by arts. 2.2 and 10.2 of the Statute of the Dispute Tribunal and arts. 13 and 14 of the Tribunal's Rules of Procedure.

10. Article 2.2 governs applications for suspension of actions pending management evaluation whereas art. 10.2 governs, inter alia, suspensions of action at any time during the proceedings.

11. The three statutory prerequisites contained in the Statute for the grant of the interim relief of suspension of action, that is, *prima facie* unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted where the contested decision is the subject of a management evaluation.

12. The three statutory prerequisites contained in art. 2.2 of the Statute, that is, *prima facie* unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted where the contested decision is the subject of a management evaluation.

13. The wording of art. 2.2 makes it clear that the Tribunal has no authority to order suspension of action on a decision once the management evaluation has been completed.

14. The Appeals Tribunal in *Tadonki* 2010-UNAT-005¹, *Onana* 2010-UNAT-008² and

the limits and prohibitions established by the Statute since, otherwise, the legislative texts, spirit, and goals underlying them would be ignored or violated⁴.

16. In the present case, the Tribunal notes that the management evaluation was completed on 12 January 2015, thus rendering moot this Application for suspension of action.

Conclusion

17. In view of the foregoing, the Application for suspension of action is rejected.

(Signed)

Judge Nkemdilim Izuako

Dated this 20th day of January 2015

Entered in the Register on this 20th day of January 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi

⁴ *Igbinedion* 2011-UNAT-159 at para. 20.