



The Application and Procedural History

1. The Applicant is the Director of Administration at the United Nations International Criminal Tribunal for Rwanda (ICTR). She serves on a fixed term appointment at the D1 level.
2. On 28 August 2015, the Applicant filed an Application for Suspension of Action “contesting the decision not to permit [her] to fully and fairly compete in the selection process” for the post of Direct Management and Operations Division, UN-HABITAT.
3. The Application was served on the Respondent on the same day. The deadline for the submission of the Respondent’s Reply was set for noon on 31 August 2015.
4. On 31 August 2015, the Respondent file

application for suspension of action to be granted. Under both arts. 13 and 14 of the UNDT Rules, the Tribunal has five working days from the service of an application on the Respondent to consider application for interim measures.

9. A suspension of action order is, in substance and effect, akin to an interim order of injunction in national jurisdictions. It is a temporary order made with the purpose of providing an applicant temporary relief by maintaining the status quo between the parties to an application pending a management evaluation of its impugned decision or a full determination of the case on the merits. It follows, therefore, that an order for a suspension of action cannot be obtained to restore a situation or reverse an allegedly unlawful act which has already been implemented.

10. This Application must be adjudicated against the stipulated cumulative test, in that the Applicant must establish that the impugned decision is *prima facie* unlawful, calls for urgent adjudication and that implementation of the impugned decision would cause him/her irreparable harm.

11. To grant an application for suspension of action, the Court must be satisfied

leading to the identification of candidates to be interviewed and subsequently for the recommendation is skewed to benefit a particular candidate who does not possess the required qualifications and experience for the post.”

13. Given those submissions, it is difficult for the Tribunal to glean what exactly the Applicant is seeking to suspend.

14. The Tribunal clearly cannot suspend the decision not to interview her, given that that decision forms part of a continuum that makes up the selection exercise. As no selection decision has yet been made by the Senior Review Group, before whom the decision is currently pending, there is no decision on the selection exercise that the Tribunal can properly suspend. The Applicant, in any event, has made the point that she is not challenging a selection decision, and acknowledges that the decision not to have invited her for an oral interview cannot be challenged at this stage.

