



**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:
Frederic C. Dahl

Counsel for Respondent:
R. L. J. UNOG

Introduction

1. By application filed on 26 July 2018, the Applicant, a Project Manager (P-4) working for the Drug Research Center, United Nations Office on Drugs and Crime (“UNODC”), requests suspension of action, pending management evaluation, of the decision not to renew his fixed-term appointment beyond 31 July 2018 and the failure to respond to his request for Special Leave Without Pay (SLWOP).
2. The application was served on the Respondent on the same day for his information and he was advised that no response was required.

Facts

3. The Applicant works for the Drug Research Center, UNODC, on projects that are dependent on external funding. He currently works on the Afghan Opiate Trade Project, which, at the time of the application, was funded until 31 July 2018.
4. According to the Applicant’s submissions, the standard practice when funding is expiring and new funding is expected but not yet finalized is to renew the affected staff member’s appointment for a short period and to allow him or her to apply for special leave without pay (“SLWOP”) until the funding is officially renewed.
- 5.

7. By email of 26 June 2018, the FRO formally informed the Applicant that “UNODC intended to allow his contract to expire on 31 July 2018”.

8. In a letter dated

19.

Prima Facie Unlawfulness

23. At this stage, the Applicant needs only to show *prima facie* unlawfulness. The

illness, for childcare *or for other important reasons for such period of time as the Secretary-General may prescribe.*

27. On the facts before it, the Tribunal finds that the Applicant has made out a case of *prima facie* unlawfulness. The documentary evidence produced by the Applicant establishes on a *prima facie* basis that funding for the Afghan Opiate Trade Project on which he is working is underway and would most likely be finalised imminently.

28. Despite this expected funding, the FRO has taken no action to extend the

than unavailability of funding and thus constitute ulterior motives. Further, the apparent unequal treatment of the Applicant's appointment pending finalisation of funding may possibly be in retaliation for the filing of his complaint against the FRO.

32. Therefore, the Tribunal finds that the decisions not to renew the Applicant's appointment beyond 31 July 2018 and not to grant him SLWOP to avoid his separation from service pending finalisation of funding for the Afghan Opiate Trade Project are *prima facie* unlawful.

33. The Tribunal notes that the Applicant requests the suspension of both the decision not to renew his appointment and not to grant him SLWOP. In his request of 18 July 2018, he requested to be placed on SLWOP as of the end of July 2018, for a period of two months. The Tribunal understands that the Applicant accepts

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Entered in the Register on this 30th day of July 2018

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi
