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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/050

Order No.: 064 (NBI/2019)

Date: 30 May 2019

Original: English

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**Before:** Judge

## Introduction

1. On 27 May 2019, the Applicant, Chief of Service at the D-1 level, at the United Nations Integrated Peacebuilding Operations Centre (UNIC) in Guinea-Bissau, submitted an application for suspension of activities. The Respondent, the United Nations Integrated Peacebuilding Operations Centre (UNIC) in Guinea-Bissau, management, evaluated the application. With a view to taking the necessary actions, the Respondent requested the Applicant to provide further information.

2. On 24 May 2019, the Tribunal issued Order No. 01/19 in which it suspended the implementation of the contested decision with effect from 24 May 2019.

3. On 28 May 2019, the Respondent filed a reply to the Tribunal's Order No. 01/19.

## Facts

4. The Applicant's application for suspension of activities was received by the Respondent on 27 May 2019. The Respondent's reply to the Tribunal's Order No. 01/19 was received on 28 May 2019.

an Administrative Assistant (Field Service), six National Professional Officers, a Security Sector Reform Officer-Defence Sector (United Nations Volunteer) and two Rule of Ncy "Qhkgtu" \*Wpkgf "P c kpu" Xqnpvggt #="í \_

6. On 28 December 2018, Ms. Patricia Fynn, UNIOGBIS, Chief Mission Support (CMS), sent a fax to Ms. Chhaya Kapilashrami, Director, Field Personnel Division (FPD) of the Department of Field Support (DFS), requesting her assistance in seeking the Under-Secretary-I gpgtcn' hqt "O cpci go gpw" cr r tqxcn' hqt" termination of four positions, kpenf kpi "vj g" Cr r kcpwú

7. On 4 January 2019, the Applicant received a notice of termination of his appointment with UNIOGBIS from the UNIOGBIS/CMS effective 31 December 2018.

Rwtuwcpv' vq" vj g" I gpgtcn' Cuugo dn{ au" cr r tqxcn' qh" vj g" o kulkpau" budget for 2019, I regret to inform you that today 4 January 2019 we received an approval dated 31 December 2018 from the Under Secretary-General for Management for the termination of your continuing appointment with the United Nations on the grounds of abolition of post in accordance with Staff Regulation 9.3 (a)(i) and Staff Rule 9.6 (c)(i).

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Your separation will be effective on 31 December 2018. This letter constitutes the formal notice of termination of your appointment in line with Staff Rule 9.7.<sup>4</sup>

8. On 15 January 2019, the Applicant requested management evaluation and suspension of action of the decision to terminate his appointment.<sup>5</sup>

9. On 15 January 2019, the Management Evaluation Unit (MEU) informed the Applicant that his request for suspension of action pending management evaluation had been granted. He was also informed that, pursuant to staff rule 11.2(d), the management evaluation in his case was to be completed by 1 March 2019.<sup>6</sup>

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<sup>3</sup> Application, annex 1.

<sup>4</sup> Application, annex 2.

<sup>5</sup> Application, annex 3.

<sup>6</sup> Application, annex 6.

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created a conflict of interest in the  
decisions regarding the Commission's

positions. Since the Applicant has had no functions to perform since January 2019, the Acting SRSG determined that it was in the interests of the Organization

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maintaining his or her artificial employment in the Mission. This is a legitimate concern. Accordingly, even if the impugned decision were improperly motivated, as alleged, in the objective sense it may still conform with the interest of the Organization.

40. In conclusion, the Tribunal is not satisfied as to the showing of *prima facie* unlawfulness.

*Irreparable harm*

41. For completeness of the argument, the Tribunal will briefly address the claim of irreparable harm. The Applicant maintains