



## **Introduction**

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proposed the abolition of 764 posts as part of MONUSCO's proposed budget for the period 1 July 2019 to 30 June 2020. He was further informed that in line with the budget proposal, MONUSCO was going to initiate a Comparative Review Process (CRP) where the number of remaining posts in the mission's new structure were less than the number of serving staff. In this respect, the CHRO requested that he submit his PHP and ePASes for 2016-2017 and 2017-2018 to the Human Resources Section for the CRP. The Applicant complied with the CHRO's request.

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management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

13. For the Tribunal to grant an application for suspension of action, the Applicant must satisfy the three cumulative requirements in art. 2.2 of the Statute and art. 13 of the Tribunal's Rules of Procedure, namely that the decision appears to be prima facie unlawful, that the matter appears of particular urgency, and that the implementation of the decision would appear to cause irreparable damage.

14. In *Maloka Mpacko* UNDT/2012/081, the Tribunal recalled that:

If an applicant seeks the Tribunal's assistance on an urgent basis, she or he must come to the Tribunal at the first available opportunity, taking the particular circumstances of her or his case into account (*Evangelista* UNDT/2011/212). The onus is on the applicant to demonstrate the particular urgency of the case and the timeliness of her or his actions. The requirement of particular urgency will not be satisfied if the urgency was created or caused by the applicant (*Villamorán* UNDT/2011/126, *Dougherty* UNDT/2011/133, *Jitsamruay* UNDT/2011/206).

15. In the present case, the Applicant was notified of the non-renewal of his FTA as a result of the "dry cut" of his post on 29 May 2019 but he did not react. It was not until he received the separation decision on 3 June 2019 that he realized

17. The Applicant has not offered any explanation to the Tribunal for his inaction between 6 and 21 June.

18. Seeing that the onus is on applicants to demonstrate the particular urgency of their cases and the timeliness of their actions, the Tribunal finds that the Applicant in the current case failed to come to the Tribunal at the first available opportunity and that the urgency of this matter was self-created.

19. In light of the foregoing, the Tribunal holds that the Applicant has failed to satisfy the prerequisite for urgency.

### **Conclusion**

20. Since the Applicant has not satisfied one of the prerequisites for a grant of suspension of action under art. 2.2 of the UNDT Statute and art. 13 of the Rules of Procedure, the Tribunal will not examine the prerequisites of *prima facie* unlawfulness and irreparable damage.

### **ORDER**

21. This application for suspension of action is accordingly REFUSED.

*(Signed)*

Judge Nkemdilim Izuako

Dated this 27<sup>th</sup> day of June 2019

Entered in the Register on this 27<sup>th</sup> day of June 2019

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi