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Introduction

1. The Applicant was a Movement Control (Movcon) Assistant at the F3 level working with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) in Gorila.

2. By an application filed on 19 July 2019, which was registered as Case No. UNDT/NBI/2019/112, the Applicant seeks to suspend a decision by MONUSCO to separate him from service effective 30 June 2019.

3. The Respondent filed a reply on 24 July 2019, where it is argued that the application is not receivable as it is not a grievance because there is no pending management evaluation.

Facts

4. On 2 April 2019, the MONUSCO Chief Human Resources Officer (CHRO) informed the Applicant of the ongoing comparative review process (CRP) and requested him to submit updated personal information.

30 June 2019. By the same letter, the CHRO informed the Applicant that the Human Resources Section was to commence his ~~back~~ process⁵.

7. On 1 June 2019, the Applicant requested management evaluation of the decision he received on 29 May 2019. On 23 July 2019, the Management Evaluation Unit (MEU) issued a response to the Applicant's request and upheld the decision not to renew his FTA⁶.

8. On 16 July 2019, the Applicant received another letter from the CHRO, citing the notice of 29 May 2019 and informing him that FTA with MONUSCO expired on 30 June 2019 and advising on steps to separate from service⁷.

9. The Applicant separated from the service of MONUSCO on 30 June 2019.

Submissions

Applicant's submissions

10. The Applicant did not specifically submit on the prima facie unlawfulness of the contested decision. The Applicant submits that the matter is urgent because a separation memo was issued despite his plea to extend his contract¹⁰. With regard to irreparable harm, the Applicant states did not A(r)-(t)-22(e)39-2(i)17(c)(r)-7(o)-20(m)36() (e)39-2

management evaluation and as such the Tribunal lacks jurisdiction to pass judgment on the Application. Consequently, the Respondent requests the Tribunal to dismiss the Application¹².

Considerations

12. This application is made under art. 2.2 of the UNDT Statute and art. 13 of the UNDT Rules of Procedure, which allows the Tribunal to suspend implementation of an impugned decision where it appears prima facie to be unlawful, that it is a case of particular urgency and its implementation would cause irreparable damage. All three elements of the test must be satisfied before the impugned decision can be stayed.

13. In any event, for the Tribunal to entertain an application filed under art. 2.2 of the UNDT Statute and art. 13 of the UNDT Rules of Procedure, management evaluation must still be pending. In the instant case, MEU issued its response to the Applicant's request for management evaluation on 23 July 2019. As such, the Applicant is seeking the suspension of a decision that is already overtaken by events.

Case No. UNDTMBI/2019/112

OrderNo.: 107(NBI/2019)