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UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/002  
Order No.: 18 (NY/2019)  
Date: 28 January 2019  
Original: English

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**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** New York

**Registrar:**

## **Introduction**

1. On 22 January 2019, the Applicant, a Director, with the United Nations Development Programme (“UNDP”) at the D-2 level on a permanent appointment, filed an application for suspension of action pending management evaluation under art. 2.2 of the Dispute Tribunal’s Statute and art. 13 of its Rules of Procedure requesting a suspension of action of an alleged decision by the Administration to separate him from service on 30 January 2019.

2. On the same day, the case was registered and assigned to the undersigned Judge in New York, and the Respondent was directed to submit his reply by 25 January 2019.

3. On 25 January 2019, the Respondent filed a reply stating that the Applicant has filed the application preemptively as there has been no decision to terminate the Applicant’s appointment.

## **Facts**

4. The Applicant i

positions. The notification advised the Applicant that he should actively apply for posts, failing which, in the absence of an agreed separation, he would be terminated from service.

7. In the period between 30 July 2018 and 23 November 2018, the Applicant actively searched for positions within the Organization, including writing to all UNDP Regional Bureaus in order to request the availability of short-term assignments and applying for a number of available positions. The Applicant has not been selected for any position to date.

8. The six-month placement in the UNDP transition pool is shortly to expire.

### **Consideration**

#### *Legal framework*

9. Article 2.2 of the Statute of the Dispute Tribunal provides:

... The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing 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.

10. Article 13.1 of the Tribunal's Rules of Procedure states:

... The Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency and

11. Examination of the above-mentioned three cumulative conditions requires the existence of an administrative decision that produces direct legal consequences affecting a staff member's

examine if the three statutory requirements specified in art. 2.2 of its Statute are met in the case at hand.

**Conclusion**

16. In light of the foregoing, the Tribunal ORDERS:

The application for suspension of action is dismissed since there is no administrative decision to challenge.

*(Signed)*

Judge Alexander W. Hunter, Jr.

Dated this 28<sup>th</sup> day of January 2019