UNITED NATIONS DISPUTE TRIBUNAL	Case No.:	UNDT/NY/2023/029
	Judgment No.:	UNDT/2024/048
	Date:	9 August 2024
	Original:	English

Before: Judge Margaret Tibulya

Registry: New York

Registrar: Isaac Endeley

HANNINA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

20.
final observations on the basis that she failed to comply with Order No. 065 (NY/2024), namely the direction that no new evidence be introduced.

21. On 4 July 2024, the Applicant filed her response to the
submitting that
substance. The Applicant stated that her observations dated 3 July 2024 responded to new allegations introduced by the Respondent in his closing submission on 28 June 2024, namely that the Applicant delayed the onboarding of the consultant.

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submissions to be relevant to the issues in the case. The

g. The Administration ha

ALWP. Based on this logic, the United Nations would have to place on administrative leave any senior manager accused of misconduct who is powerful and influential lest they too interfere in a fact-finding or investigative process.

k. Mission could prejudice the interests or reputation of the Organization by virtue of the powerful and influential position she holds, was directly connected to the p the Applicant was informed on 5 February 2024 that the panel had concluded its work and its report transmitted to the Office of Human Resources, DMSPC for possible disciplinary action, it is no longer possible for the Applicant to intervene in the work of the panel and therefore her presence in the Mission cannot be said to preju 1 6aid coo

signature on the form, he asked for the form to be completed anew for her approval.

e. After a review of the circumstances in the delay of the issuance of a contract to the panel member, and the recommendation of the Chief, Regional Conduct and Discipline Section noting the delays and the impact of the delays on the p

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SRSG provided her with a written statement of the reasons for her placement on ALWP and its initial duration. The decision was reasonable and proportionate. The contested decision was also a proportionate non-punitive

with ensuring the interests of the Organization in finalising its investigation promptly, ensuring full participation of witnesses, and safeguarding its reputation.

Legal framework

25. the Administration unlawfully placed her on ALWP.

26. Regarding ALWP, staff rule 10.4(a) provides as follows (emphasis in the original):

> **Administrative leave pending investigation and the disciplinary process**
>
> (a) A staff member may be placed on administrative leave, under conditions established by the Secretary-General, at any time after an allegation of misconduct and pending the completion of a disciplinary process. Administrative leave may continue until the completion of the disciplinary process.
>
> (b) A staff member placed on administrative leave pursuant to paragraph (a) above shall be given a written statement of the reason(s) for such leave and its probable duration.
>
> (d) Placement on administrative leave shall be without prejudice to the rights of the staff member and shall not constitute a (to)L(Adr/792 resF)8above shall bemj4

a report of suspected unsatisfactory conduct and following the circumstances is met:

(b) Continued service by the staff member would create a

interests and reputation of the Organization. Based on the foregoing, the Tribunal accepts the Respondent s explanation that the change complained about was a clerical error, which, in any event did not fundamentally prejudice the Applicant.

46. The Applicant states that she was informed on 5 February 2024 that the fact-finding panel had concluded its work and that its report had been transmitted to OHR/DMSPC for possible disciplinary action. She submits that it is no longer possible for her to intervene in the work of the panel and therefore her presence in the Mission cannot be said to prejudice the interests and reputation of the Organization. Consequently, she argues that further extension of the ALWP is unwarranted.

47. The Tribunal notes that the letter dated 19 April 2023 from the SRSG, UNSMIL to the Applicant placing her on ALWP, indicated that in order to protect the work of the fact-finding panel, he had determined to place the Applicant on ALWP for an initial period of three months, or until completion of any disciplinary process, whichever is earlier . The record indicates that the disciplinary process is not yet complete. The Applicant submits herself that she was informed that the fact-finding panel had concluded its work and its report transmitted to OHR/DMSPC for possible disciplinary action. It follows that the

made a decision to abandon the complaint. This argument must therefore fail for lack of merit.

49. At this juncture, it is important for the Tribunal to emphasize that ALWP is a non-punitive, non-disciplinary and purely administrative measure. The measure is not permanent but temporary or limited in nature, even if the duration can be extended, as . The Applicant continues to receive her salary and is therefore not financially prejudiced by the decision to place her on ALWP.

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process rights were respected. Indeed, save for the complaint about the change in the legal basis for the decision, the Applicant did not raise any other due process related challenges. In this regard, the Tribunal notes that the SRSG, who had delegated authority as head of entity to make the contested decision, provided the Applicant with a written statement of the reasons for her placement on ALWP and its initial duration in keeping with staff r
procedurally correct.

51. Conclusively, the Applicant has failed to discharge the burden of establishing that the contested decision was arbitrary or capricious, motivated by prejudice or other extraneous factors, or was flawed by procedural irregularity or error of law.

52. **Conclusion**

53. The contested decision is lawful. The application is dismissed for lack of merit.

(Signed)

Judge Margaret Tibulya
Dated this 9th day of August 2024

Entered in the Register on this 9th day of August 2024

(Signed)

Isaac Endeley, Registrar, New York