



1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an appeal filed by the Secretary-General of the United Nations against Order No. 118 (NY/2013), rendered by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York on 29 April 2013 in the case of *El-Komy v. Secretary-General of the United Nations*.

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14. Finally, Mr. El-Komy asks the Appeals Tribunal to reject the Secretary-General's plea for expedited review.

Considerations

15. Article 2 of the UNDT Statute, laying out the general structure and jurisdiction of the UNDT, grants the power to suspend the implementation of an administrative decision during the pendency of management evaluation.

16. Article 10(2) of the Statute of the UNDT provides that the UNDT may adopt interim measures at any time of the proceedings, that is to say, once judicial proceedings have been initiated. Among those measures, it provides for the suspension of the implementation of administrative decisions but prohibits the adoption of such suspension *in cases of appointment, promotion, or termination*. These cases are also subject to special treatment under Article 10(5)(a) of the UNDT Statute, which provides that the UNDT may not suspend the implementation of administrative decisions in cases of appointment, promotion, or termination. 53()JTJEMC /P 54MC

decision pending management evaluation. The Appeals Tribunal thus considers that no jurisdictional decision, no matter how it is named by the Dispute Tribunal, which, as in the present case, orders the suspension of a contested administrative decision for a period beyond the date on which the management evaluation is completed, can be considered as falling within the scope of the exception to the right to appeal as outlined in the aforementioned provisions of Article 2(2) of the UNDT Statute, and of Article 13 of its Rules of Procedure.

20. The UNDT Statute clearly prohibits the adoption of such suspension in cases of appointment, promotion, or termination. The appeal is receivable because the UNDT exceeded its jurisdiction in ordering the suspension of the contested decision beyond the date of completion of management evaluation.

Original and Authoritative Version: English

Dated this 31st day of July 2013.

(Signed)

Judge Weinberg de Roca,
Presiding
Buenos Aires, Argentina

(Signed)

Judge Simón
Montevideo, Uruguay

(Signed)

Judge Lussick
London, UK

Entered in the Register on this 31st day of July 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar