

BETWEEN:

Case No: UNDT/GVA/2009/39

OSMAN

APPLICANT

AND

THE SECRETARY-GENERAL OF
THE UNITED NATIONS,

RESPONDENT

ORDER

1. By application registered on 3 August 2009 under UNDT/GVA/2009/40, the Applicant, serving as Fuel Assistant at United Nations Assistance Mission for Iraq (UNAMI), at the FS3/10 level, on the basis of a Fixed-Term Appointment under 100 Series of the Staff Rules, requested the Tribunal to order the suspension of the implementation of the UNAMI's decision not to renew his contract beyond 18 August 2009.

CONTENTIONS OF THE PARTIES

2. The Applicant holds that he has been subject to irregular practices and to abuse of power and that he has received employment threats from his superiors. For the first time in 18 years of service at the United Nations he has been the victim of such an injustice, his evaluation procedure not having been regularly followed. He wished to have his contract renewed for such a period of time as to permit the Administration to conform itself to the relevant rules and procedures. He has suffered since August 2007 from his Second Reporting Officer's behaviour, who has encouraged his First Reporting Officer and other persons to take non justified measures with regard to him. His hierarchy has taken advantage of the staff member's absences motivated by his mother's decease to prevent him from responding to the allegation on the quality of his performance. The decision not to renew his contract was not

Applicant was deprived of the possibility to benefit from fair review of his electronic performance appraisal system (E-PAS) by a rebuttal panel, and his post is intended to be given to an Australian national staff member. His c

6. MEU considers that the conditions to grant the suspension of action are met, as (1) there is urgency, (2) the damage caused should the decision be implemented would be irreparable and (3) the procedure of performance ev

appointment. To date, no official response to this request has been issued and the contested decision has not been overturned by the Administration. Hence, contrary to what the Respondent contends, the Applicant's request for suspension of action has not become moot, and it must thus be decided upon.

11. The Appellant asserts, and this point is not contested by the Administration, that the decision not to renew his contract beyond 18 August 2009 is unlawful in as much as his evaluations corresponding to the periods 2007/2008 and 2008/2009 were conducted following an irregular procedure. In this respect, it is established that UNAMI decided not to renew the Applicant's appointment on the grounds of poor performance, while the appraisal performance procedure for the concerned staff member, at least for 2008/2009, was not regularly completed. Therefore, in light of the cas

(Signed)

Judge Jean-François Cousin

Dated this 13 day of August 2009

Entered in the Register on this 13 day of August 2009

(Signed)

Víctor Rodríguez, Registrar, UNDT, Geneva