



Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

KOMPASS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:

Alexandre Tavadian, OSLA

Robbie Leighton, OSLA

Counsel for Respondent:

Stéphanie Cochard, UNOG

Jérôme Blanchard, UNOG

Introduction

1. By application filed on 29 April 2015, the Applicant requests suspension of action, pending management evaluation, of the decision taken by the Acting Director-General, United Nations Office at Geneva (“UNOG”) on 17 April 2015 to place him on administrative leave with pay pending the outcome of an investigation into allegations of misconduct.

2. The application was served on the Respondent who filed his reply on 4 May 2015.

Background and facts

3. The Applicant works at the Office of the High Commissioner for Human Rights (“OHCHR”), Geneva, as Director, Field Operations and Technical Cooperation Division (D-2). His current fixed-term appointment expires on 8 July 2015. His first reporting Officer is the Deputy High Commissioner.

4. In mid-July 2014, the Chief, Rapid Response Unit and Peace Missions Section, OHCHR, provided to the Applicant a copy of a report containing serious allegations of paedophilia allegedly committed in the Central African Republic by French military.

5. According to the Applicant, on or about 23 July 2014, he brought the content of the report to the attention of the Deputy Ambassador of France.

6. The Applicant states that shortly thereafter he informed the Deputy High Commissioner that he had seen the report and had discussed the allegations therein with the Deputy Ambassador of France.

7. The Applicant further states that, in reply to a request from the French Permanent Mission to the United Nations in Geneva, he shared with it a copy of the report. The Applicant alleges that he informed the Deputy High Commissioner about this on 7 August 2014.

8. The Respondent qualifies as “a disputed fact under investigation” the Applicant’s argument that he spontaneously disclosed to his supervisor (i.e., the Deputy High Commissioner) in the Summer of 2014 that he had leaked information. The Respondent states that the High Commissioner for Human Rights (“High Commissioner”) learned on 6 March 2015 that the Applicant allegedly leaked “confidential un-redacted preliminary investigative notes” with respect to allegations of sexual abuse of children in Central African Republic, “including notably the names and other identifying information pertaining to the child-victims”.

9. The Applicant further maintains that during a meeting on 12 March 2015 with the Deputy High Commissioner, the latter informed him that in light of his handling of the matter, the High Commissioner had requested his resignation, adding that such a request had been made by the Under-Secretary-General for the Department of Peacekeeping Operations. The Respondent did not contest this in his reply. Furthermore, the Applicant refused to resign.

10. As per the Respondent’s reply, the High Commissioner requested the Office of Internal Oversight Services (“OIOS”) on 9 April 2015 to investigate allegations of misconduct by the Applicant. OIOS subsequently launched an investigation. The High Commissioner sent a note to the Acting Director-General, UNOG, on 10 April 2015, recommending that the Applicant be placed on administrative leave with full pay under staff rule 10.4.

11. The High Commissioner informed the Applicant of the decision to place him on administrative leave with full pay during a meeting held on 17 April 2015.

12. By memorandum of the same day, the Officer-in-Charge, Division of Administration, UNOG, informed the Applicant that “the High Commissioner for Human Rights ha[d] requested an investigation into allegations of misconduct raised against [the Applicant] and ha[d] recommended [the latter’s] placement on administrative leave with full pay pending investigation on the basis of staff rule 10.4”. The memorandum further stated:

The Acting Director-General of UNOG concurred with this recommendation and requested that you be notified of his decision to place you on administrative leave with immediate effect. The administrative leave will continue for three months or until completion of an investigation and any disciplinary process, whichever is earlier, at which point the matter will be revisited.

In the context of the investigation, it is considered to be in the interest of the Organization to place you on administrative leave in order to preserve all evidence and to avoid any interference with the investigation. The reasons for your placement on administrative leave also include an assessment that your redeployment would not be feasible in the current circumstances.

13. The Applicant filed a request for management evaluation on 29 April 2015.

Parties' contentions

14. The Applicant's primary contentions may be summarized as follows:

Receivability

- a. The decision has not yet been fully implemented; as the Tribunal held in *Ba* UNDT/2012/025, "a decision to place a staff member on administrative leave—with or without pay—is a decision with continuing effect which may be suspended ... at any time as long as the administrative leave endures";

Prima facie unlawfulness

- b. The decision is *prima facie* unlawful;
- i. The (Acting) Director-General, UNOG, did not have delegation of authority to take the contested decision; in application of para. 5 of ST/AI/371 and Annex V of ST/AI/234/Rev.1, the recommendation by the High Commissioner, OHCHR, needed the approval by the Assistant Secretary-General ("ASG") for Human Resources Management;
- ii. The OHCHR, like all other UN Secretariat Offices and Departments, including e.g. the Ethics Office and the Office of the

Ombudsman, is a separate Office, which is merely administered by UNOG;

iii. UNOG does not have any authority over OHCHR or other independent Offices and staff of OHCHR are not staff of the Director-General, UNOG; under Annex V of ST/AI/234/Rev.1 the delegation of authority to the Heads of Offices away from Headquarters, including UNOG, applies only “with regard to their staff”;

iv. As such, the decision is *ultra vires*;

v. The reason to place the Applicant on administrative leave, namely “to preserve all evidence and to avoid any interference with the investigation”, is unreasonable: the Applicant never denied that he shared a copy of the report with the French authorities; hence, there is no evidence that he could possibly destroy; furthermore, his behaviour over the last ten months shows that he had no intention to conceal or destroy evidence; rather, he has been very transparent about his actions, freely and spontaneously disclosing them to the Deputy High Commissioner, and he shared a detailed report about what he had done and the reasons for it; the Administration has no reason to believe that the Applicant will attempt to interfere with the investigation; the alleged wrongdoing happened in July 2014 and the Administration—although aware of it—placed the Applicant on administrative leave only in April 2015; therefore, and in the absence of new facts arising between July 2014 and April 2015, the argument that the Applicant would conceal or destroy evidence lacks credibility;

vi. The decision constitutes in fact a disguised disciplinary measure, or a punishment, imposed on the Applicant by the High Commissioner in light of his refusal to resign;

Urgency and irreparable damage

- c. The urgency results from the continuing legal effect of the unlawful decision of 17 April 2015, which the Applicant challenged immediately; hence, the urgency is not self-created;
- d. Two distinct criteria, *prima facie* unlawfulness and urgency, are interconnected: when a serious issue exists under the first criterion, the urgency may be increased; this is the case in the present situation;
- e. For the purpose of a suspension of action, harm is irreparable where it can be shown that the only way to ensure that the Applicant's rights are observed is through a suspension of action; irreparable reputational and moral damages may result from the fact that a staff member is prevented from carrying out his official functions (*Applicant* UNDT/2011/187);
- f. The Applicant has an unblemished employment record and his competence and integrity, which have never been questioned throughout his career, are casted into doubt by the contested decision; the publicity of the process resulting from him having been placed on administrative leave leads to an exacerbation of the reputational damage to the Applicant each day the administrative leave continues.

15. The Respondent's primary contentions may be summarized as follows:

Receivability

- a. The application is not receivable because the contested decision has been implemented; as a result, it does not meet the receivability criteria under art. 2.2 of the Tribunal's Statute and art. 13 of its Rules of Procedure. Indeed, the Applicant was placed on administrative leave effective 17 April 2015; on that day he was informed accordingly and the respective Personnel Action was also issued and finalized;
- b. The Dispute Tribunal 2009-2012 jurisprudence cited by the Applicant—to support that his placement on administrative leave with full

pay can only be deemed implemented at the end of the administrative leave—is contradicted by recent case law of the Dispute Tribunal;

c. In the present case, “suspending” the decision would not maintain the status quo which existed at the time of application. Granting the suspension of action would in fact equate to reversing the contested decision and exceeding the powers conferred to the Tribunal by art. 2.2. of its Statute in applications for suspension of action;

Prima facie unlawfulness

d. The contested decision is not *ultra vires* or tainted by extraneous factors, and is properly motivated;

e. The Acting Director-General, UNOG, has the authority to place OHCHR staff members on administrative leave. This is supported by Administrative Instruction ST/AI/234/Rev.1 (Administration of the Staff Regulations and the Staff Rules) together with its 2014 amendment (ST/AI/234/Rev.1/Amend.2);

f. Said authority is not limited to UNOG staff members *stricto sensu*, as argued by the Applicant, for it applies to all staff members of entities administered by UNOG, OHCHR being one of them. The reference to “their staff” in ST/AI/234/Rev.1 cannot but be understood as including all staff members of the Secretariat, based at the respective duty station and administered by UNOG. This is particularly relevant for the case at hand when one considers the history leading to the creation of OHCHR: its preceding entity, the Centre for Human Rights, was part of the Secretariat and its staff was under the authority of the Director-General, UNOG. Although ST/AI/234/Rev.1 was never amended to reflect the creation of OHCHR, it is respectfully submitted that the General Assembly and/or the Secretary-General never intended to withdraw such delegation of authority at the creation of OHCHR;

g. Additionally, the Secretary-General's Bulletin ST/SGB/2000/4 (Organization of the United Nations Office at Geneva) corroborates the intention of the Organization to maintain the delegation of authority of UNOG over OHCHR staff;

h. It is undisputed that the Applicant's placement on administrative leave was made at the request of and in full consultation with the High Commissioner of Human Rights. Additionally, the ASG for Human Resources Management was informed of the decision and, by email dated 1 May 2015 to the Assistant Secretary-General for Human Rights, she confirmed that based on the existing delegation of authority, the "UNOG Director-General [has] the delegated authority to take this decision";

i. *Prima facie* evidence available together with the non-feasibility of the Applicant's redeployment were considered as factors justifying the impugned decision. The leak under investigation by OIOS concerns notably the names and other identifying information pertaining to children allegedly victims of sexual violations, and of staff members who conducted the interviews and who are key witnesses for the ongoing investigation. In these circumstances, given the Applicant's overall responsibility and supervision of personnel in all field presences, including those who conducted the interviews and who are potential witnesses for the ongoing investigation, there is a real concern that the Applicant could destroy, conceal or otherwise tamper with evidence, or interfere with the investigation. These concerns were heightened when a staff member who drafted the confidential preliminary investigative notes, and who is a key witness for the investigation, indicated fearing "problems" stemming from the reporting lines involving the Applicant;

j. Although the Applicant alleges that there is "no evidence to preserve"—given the fact that the investigative notes were leaked and that he admitted to it—the risks of interference with an investigation and of destruction or concealment of evidence only start when the subject of the

investigation is informed of the Organisation's intention to investigate the alleged misconduct;

k. The Applicant's placement on administrative leave was done without delay, shortly after the High Commissioner learnt in March 2015 that the Applicant was apparently responsible for the leak. The High Commissioner immediately took the necessary steps to launch an investigation; the Applicant was informed of the launching of an investigation by OIOS into his alleged misconduct on 17 April 2015, and placed on administrative leave at the same time. The Applicant's argument that he voluntarily and spontaneously disclosed to his supervisor in the Summer of 2014 that he had leaked information is a disputed fact under investigation;

l. Lastly, the Applicant's placement on administrative leave appeared particularly warranted as the OIOS investigation related to the instant case was launched while another investigation concerning another alleged leak by the Applicant is still ongoing. The cumulative effect of these two serious allegations further supports the validity of the Applicant's placement on administrative leave, at the request of the High Commissioner for Human Rights, at the time of the launching of the second OIOS investigation;

m. In view of the foregoing, the Applicant has failed to show a case of *prima facie* illegality;

Urgency

n. There is no urgency supporting the suspension of the contested decision before the completion of the management evaluation. The "continuing" effect of the contested decision will not degrade or worsen the Applicant's financial situation or professional reputation for he will continue to receive his full salary;

Irreparable damage

o. There is also no irreparable harm warranting the suspension of the contested decision before the completion of the management evaluation.

Any alleged “reputational” damage to the Applicant is not the result of his placement on administrative leave—or of its alleged continuing effect—but rather that of OIOS decision to investigate the allegations of misconduct levelled against him. Although unfortunate, making public the placement on administrative leave pending investigation is not a result of the Respondent’s action, and any alleged harm to the Applicant’s reputation caused by the alleged continuing effect of his administrative leave will not be irreparable: his reputation will undoubtedly be restored if and when he is cleared of the allegations. Finally, any alleged harm caused to the Applicant by the decision could be at least partially compensated in damages.

Consideration

16. Pursuant to art. 2.2 of its Statute, the Tribunal is competent to hear and pass judgment on an application filed by an individual requesting it:

[T]o 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.

17. This Tribunal has consistently held that a condition for granting a request for suspension of action is that the decision has not yet been implemented (cf. e.g. *Applicant* Order No. 167 (NBI/2014); *Elkeiy* Order No. 43 (GVA/2015); *Kawas* Order No. 297 (NY/2014)).

18. With respect to administrative leave, the Tribunal recalls what it held in *Calvani* UNDT/2009/092 and *Ba* UNDT/2012/025, namely that a decision to place a staff member on administrative leave, with or without pay, produces continuous legal effects during the whole period of administrative leave (cf. in that sense also *Moise* Order No. 208 (NY/2014)). As such, while administrative leave commences on a certain date—in the case at hand on 17 April 2015—and implementation has thus started, it is fully implemented only upon its completion, that is, at the end of the administrative leave period. In contrast, other decisions, such as the non-renewal of a fixed-term appointment, while they continue to

produce legal effects beyond their implementation, they are characterized by the fact that the commencement and completion of their implementation are simultaneous. Therefore, and since implementation is not completed before the actual period of administrative leave has expired, a decision to place a staff member on administrative leave can be suspended at any time before such expiry, under art. 2.2 of the Tribunal's Statute.

19. Accordingly, since the request for management evaluation is still pending and the administrative leave is still ongoing in the present case, the Tribunal finds that the application is receivable.

20. Further, the Tribunal can order suspension of the contested decision only if it concludes that all three cumulative criteria, namely *prima facie* unlawfulness, particular urgency and irreparable damage, are met.

Prima facie unlawfulness

21. With respect to the first criterion, the Tribunal has repeatedly held that the prerequisite of *prima facie* unlawfulness does not require more than serious and reasonable doubts about the lawfulness of the contested decision (see *Hepworth* UNDT/2009/003; *Corcoran* UNDT/2009/071; *Corna* Order No. 90 (GVA/2010); *Berger* UNDT/2011/134; *Chattopadhyay* UNDT/2011/198; *Wang* UNDT/2012/080; *Wu* Order No. 188 (GVA/2013)).

22. In this respect, it held in *Corna* Order No. 90 (GVA/2010) that:

[T]he combination of the words “appears” and “prima facie” shows that this test is undemanding and that what is required is the demonstration of an arguable case of unlawfulness, notwithstanding that this case may be open to some doubt. This was echoed in *Corcoran*, UNDT/2009/071, in which the Tribunal held that “since the suspension of action is only an interim measure and not the final decision of a case it may be appropriate to assume that prima facie [unlawfulness] in this respect does not require more than serious and reasonable doubts about the lawfulness of the contested decision”.

23. The Tribunal first has to examine whether the contested decision was *ultra vires*, or, in other words, whether the Director-General, UNOG, did have the

delegated authority to place the Applicant on administrative leave pursuant to staff rule 10.4.

24. At the outset, the Tribunal recalls what the Appeals Tribunal requested in Judgment *Bastet* 2015-UNAT-511, namely that any mechanism used for the purpose of delegation of authority must contain “a clear transmission of authority to the grantee concerning the matter being delegated”.

25. The Tribunal notes that staff rule 10.4 provides:

Administrative leave pending investigation and the disciplinary process

(a) A staff member may be placed on administrative leave, subject to conditions specified by the Secretary-General, at any time after an allegation of misconduct and pending the initiation of an investigation.

...

(b) A staff member placed on administration leave pursuant to paragraph (a) above shall be given a written statement of the reason(s) for such leave and its probable duration, which, so far as practicable, should not exceed three months.

26. Further, ST/AI/371¹ (Revised disciplinary measures and procedures) stipulates in para. 5, that:

[o]n the basis of the evidence presented, the Assistant Secretary-General, on behalf of the Secretary-General, shall decide whether the matter should be pursued, and, if so, whether administrative leave is warranted.

27. With respect to the authorized official, ST/AI/234/Rev.1 (Administration of the staff regulations and staff rules) provides in its Annex II, *Matters within the authority of the Assistant Secretary-General for Human Resources Management*, that the latter is competent to take decisions under staff rule 10.4 “to place a staff member in the General Service or related categories, the Professional and higher categories up to and including the D-2 level ... on administrative leave”.

¹ Consolidated text of ST/AI/371 as last amended by ST/AI/371/Amend.1 effective 11 May 2010.

28. Annex V of the same administrative instruction, *Matters within the authority of heads of offices away from headquarters with respect to their staff* (in addition to those listed with an asterisk in annex II and those listed in Annex IV) (emphasis added), sub-section *United Nations Office at Geneva*, delegates the decision to place staff members under administrative leave under staff rule 10.4 to UNOG “with respect to [its] staff”.

29. Further, the Tribunal took note of ST/SGB/2000/4 (Organization of the United Nations Office at Geneva), which provides in sec. 2, *inter alia*, that “[UNOG] ... provides administrative and other support services for the Office of the United Nations High Commissioner for Human Rights”. The bulletin further states that UNOG is divided into organizational units, as described in the bulletin, namely the Director-General (Office), the Division of Administration, the Conference Services Division, UNOG Library and the United Nations Information Centre. The OHCHR is not contained in the bulletin as an organizational unit of UNOG; rather, it is explicitly and simply referred to as a unit to which “administrative and other support services” are provided by UNOG.

30. This is further elaborated by the Memorandum of Understanding (“MoU”), dated 1 June 2010, between UNOG and OHCHR, which contains a detailed list of services that UNOG renders to OHCHR. Under “Human resources services”, the MoU states, *inter alia*, that UNOG, on the one hand, approves “IMIS personal actions ... travel authorizations ...; education grants” etc., whereas, on the other hand, UNOG is “[p]roviding guidance and assistance in handling staff grievances and cases involving conduct and ethics issues”. As such, the Tribunal observes that the MoU makes a clear distinction between matters for which UNOG has full decision making power and others, such as “cases involving conduct and ethics issues”, in which its support is limited to giving guidance to OHCHR.

31. In view of the level of detail contained in the MoU, the Tribunal concludes that it does not provide for a general and holistic provision of services, but rather contains an exhaustive list, which does not refer to any decision relating to the placing of staff members on administrative leave.

32. The Tribunal also examined General Assembly resolution A/Res/48/141 of 20 December 1993, by which the General Assembly decided to create the post of High Commissioner for Human Rights, as “the United Nations official with principal responsibility for United Nations human rights activities under the direction and authority of the Secretary-General”. By said resolution, the General Assembly further decided that the “Office of the High Commissioner for Human Rights shall be located at Geneva and shall have a liaison office in New York” and “[r]equests the Secretary-General to provide appropriate staff and resources, within the existing and future regular budgets of the United Nations, to enable the High Commissioner to fulfil his/her mandate”. Nothing in the resolution indicates that OHCHR falls under the “umbrella” of UNOG or that staff of the OHCHR become “UNOG staff”.

33. In light of the foregoing legal instruments, it appears that OHCHR is a mere client of and administered by UNOG only to the extent provided for in the above-mentioned bulletin and the MoU. OHCHR is not part of UNOG organizational structure. As such, OHCHR Geneva based staff do not fall under the delegation of authority provided for under Annex V of the ST/SGB/234/Rev.1 to UNOG “with respect to [its] staff”. The Respondent’s argument that “any reference to “their staff” in ST/AI/234/Rev.1 should be understood as including all staff members of the Secretariat, based in the duty station and administered by UNOG”, is not supported by the available legal instruments. To find otherwise, and to adopt the Respondent’s argument, would lead to the result of having staff members with dispersed and/or decentralized offices—including OHCHR that has its main office in Geneva, but also a liaison office in New York and various field offices—depend on different authorities with respect to such an important decision as that to be placed on administrative leave.

34. By reference to the standard set by UNAT in the above-cited Judgment *Bastet* 2015-UNAT-511, the Tribunal is not satisfied that the available legal instruments provide for such a clear transmission of authority to the Director-General, UNOG, with respect to staff of OHCHR. Rather, the Tribunal is of the view that the case raises serious and reasonable doubts on whether the Director-

General, UNOG, had such authority with respect to placing the Applicant on administrative leave.

35. The Tribunal further notes that the fact that the ASG for Human Resources Management was copied on the memorandum of 17 April 2015, and that she confirmed, in an email of 1 May 2015, that it was her understanding that the Director-General, UNOG, had the delegated authority to take the contested decision, did not correct the fact that the initial decision was taken by an official whose authority to take the contested decision is open to serious and reasonable doubts, as described above.

36. Further, the Tribunal considered whether the decision was taken on legally sound grounds. In this regard, the Tribunal notes that pursuant to staff rule 10.4 (a), a staff member may be placed on administrative leave, subject to conditions specified by the Secretary-General, at any time pending an investigation until the completion of the disciplinary process". The Secretary-General has specified the respective conditions in ST/AI/371 whereby its purpose is "to provide guidelines and instructions on the application of chapter X of the Staff Rules, Disciplinary Measures and Procedures, and to outline the basic requirements of due process to be afforded to staff member against whom misconduct is alleged".

37. The Tribunal observes that para. 4 of ST/AI/371 contains an exhaustive list of reasons for which administrative leave, "[a]s a general principle", may be envisaged, namely "if the conduct in question might pose a danger to other staff members or to the Organization, or if there is a risk of evidence being destroyed or concealed".

38. The Tribunal notes that the contested decision does not refer to "a danger to other staff members or to the Organization", but to "the interest of the Organization ... in order to preserve all evidence and to avoid any interference with the investigation".

39. The Tribunal finds that neither the interest of the Organization, nor the avoidance of any interference with the investigation are reasons in the exhaustive

list of para. 4 of the respective administrative instruction. Therefore, as such, they cannot be accepted as valid reasons for placing the Applicant on administrative leave.

40. The Tribunal understands, however, that when reference is made to the preservation of evidence, it relates in fact to “the risk of evidence being destroyed or concealed”, as provided for in the administrative instruction. In the same way, it is possible to interpret the reference to “interference with the investigation” as an element that equally relates to the “risk of evidence being ... concealed”. The Respondent states in his reply that he was concerned that given the Applicant’s position, he might influence OHCHR staff so as to no longer make them feel free to provide evidence/testimony in the framework of the ongoing investigation.

41. The Tribunal observes that the Respondent did not contest that, already on 12 March 2015, the Deputy High Commissioner informed the Applicant that the High Commissioner demanded his resignation, in light of the Applicant’s handling of the matter at stake. It further remarks that, thereafter, it took more than one month until the Applicant was informed of the decision by the Director-General, UNOG, to place him on administrative leave.

42. In this respect, it has to be emphasized that the Applicant does not deny having provided information to the French authorities. More importantly, had he had any intention to destroy or conceal evidence, he could have easily done so, at least after 12 March 2015. Under these circumstances, to place him on administrative leave on 17 April 2015 to prevent him from concealing or destroying evidence, does not seem to be an effective measure as provided for in the administrative instruction. Further, with respect to any interference by the Applicant on the investigation, for the purpose of concealing evidence, the Tribunal observes, first, that there is no indication or evidence whatsoever that the Applicant might indeed have any intention to do so. Second, even if he had such intention, this is not prevented by placing him on administrative leave, since if he indeed wished to do so, he could easily get in touch with any relevant staff member or stakeholder even while on administrative leave. Thus, the Tribunal

finds that the measure to place the Applicant on administrative leave for the reason provided for in the memorandum of 17 April 2015 defeats its purpose.

43. Finally, the Tribunal notes that the Respondent, in his reply, refers to an incident involving another OIOS investigation, which allegedly has been ongoing against the Applicant and which equally concerns allegations of leak of confidential information. The Tribunal recalls that staff rule 10.4(b) provides that “[a] staff member placed on administrative leave ... shall be given a written statement of the reason(s) for such leave” and observes that in the memorandum of 17 April 2015 no reference was made to said second investigation or how this might increase the risk of the Applicant using his position to destroy, conceal or otherwise tamper with evidence.

44. Accordingly, the Tribunal concludes that there are also serious and reasonable doubts with respect to the substantive legality of the contested decision.

Urgency

45. It is the Tribunal’s view that the fact that the decision to place the Applicant on administrative leave—which it found to be *prima facie* unlawful—produces continuing legal effects suffices in itself to establish an element of urgency (see *Ba* UNDT-2012-025).

46. Further, the Tribunal is satisfied that the urgency is not self-created and that the Applicant promptly contested the decision once it had been notified to him.

Irreparable damage

47. As the Tribunal held in *Moise* Order No. 208 (NY/2014), “[i]t is generally accepted that mere economic loss only is not enough to satisfy the requirement of irreparable damage. Depending on the circumstances of the case, harm to professional reputation and career prospects, harm to health, or sudden loss of employment may constitute irreparable damage”.

48. The Tribunal notes that placing a staff member on administrative leave must be based on serious grounds. Indeed, para. 4 of ST/AI/371 requires that “the conduct in question might pose a danger to other staff members or to the Organization” or a “risk of evidence being destroyed or concealed”. As such, placement on administrative leave inevitably has a negative impact on the reputation of a staff member’s integrity.

49. Therefore, and since the Applicant is currently being prevented from carrying out his functions as a result of being on administrative leave, which is of public knowledge, the Tribunal finds that if the suspension is not granted, the harm done to the Applicant’s reputation will be irreparable and could not be adequately compensated at a later stage.

Conclusion

50. In view of the foregoing, it is ORDERED that:

The decision of 17 April 2015 placing the Applicant on administrative leave be suspended pending the outcome of the management evaluation.

(Signed)

Judge Thomas Laker

Dated this 5th day of May 2015

Entered in the Register on this 5th day of May 2015

(Signed)

René M. Vargas M., Registrar, Geneva