



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

MUKUI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON SUSPENSION PENDING THE
CONSIDERATION OF AN
APPLICATION FOR SUSPENSION OF
ACTION UNDER ART. 2.2 OF THE
DISPUTE TRIBUNAL'S STATUTE**

Counsel for Applicant:

Evelyn W. Kamau, OSLA

Counsel for Respondent:

Camila Fuomene Nkwenti Awa, UNEP

Introduction

1. On 2 August 2019, the Applicant, an Administrative Officer at the P-3 level with the Secretariat of the Convention on Biological Diversity in Montreal, Canada, filed an application requesting urgent relief under art. 2.2 of the Dispute Tribunal's Statute and art. 13 of its Rules of Procedure seeking to suspend, pending management evaluation, the decision excluding the Applicant from participating in the competency-based interview for the position of Administrative Officer at the P-4 level and not selecting the Applicant for this position.

Consideration

2. Article 13.3 (Suspension of action during a management evaluation) of the Tribunal's Rules of Procedure provides that the Tribunal "shall consider an application for interim measures within five working days of the service of the application on the respondent".

3. In *Villamorán* 2011-UNAT-160, the Appeals Tribunal upheld this Tribunal's *Villamorán* Order No. 171 (NY/2011) finding that the Dispute Tribunal was within its competence to order a suspension of the contested decision pending a determination of the application for suspension of action without having to make a finding as to whether the requirements of a suspension of action under art. 2.2 of the Dispute Tribunal's Statute and art. 13 of its Rules of Procedure had been met.

4. The Applicant claims that competency-based interviews of other job applicants for the contested position were completed in May 2019 and that on 25 July 2019 the Administration advised the Applicant that the recruitment will continue. Based on the application, the Tribunal cannot determine when the recruitment will be completed. In order for the Tribunal to seek and consider further information from the Respondent for the determination of the present suspension of action application,

IT IS ORDERED THAT:

5. The Respondent shall not undertake, as from the date and time of service of the present Order, any further steps regarding the contested recruitment until the determination of the present suspension of action application.

6. The Respondent shall submit his reply by **12:00 p.m. on Tuesday, 6 August 2019**.

(Signed)

Judge Joelle Adda

Dated this 2nd day of August 2019