



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2017/077
Order No.: 144 (NY/2017)
Date: 28 July 2017
Original: English

Before: Judge Ebrahim-Carstens
Registry: New York
Registrar: Morten Albert Michelsen, Officer-in-Charge

SERRARIS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:
Daniel Trup, OSLA

Counsel for Respondent:
Nicole Wynn, ALS/OHRM

4. Pursuant to art. 19 of the Rules of Procedure of the Dispute Tribunal,

The Dispute Tribunal may at any time, either on an application of a party or on its own initiative, issue any order or give any direction which appears to a judge to be appropriate for the fair and expeditious disposal of the case and to do justice to the parties.

5. Article 36.1 of the Rules of Procedure provides that:

All matters that are not expressly provided for in the rules of procedure shall be dealt with by decision of the Dispute Tribunal on the particular case, by virtue of the powers conferred on it by article 7 of its statute.

6. Pursuant to art. 13.3 of the Rules of Procedure,

The Dispute Tribunal shall consider an application for interim measures within five working days of the service of the application on the respondent.

7. In *Villamorán* 2011-UNAT-160, the Appeals Tribunal upheld this Tribunal's *Villamorán* Order No. 171 (NY/2011) finding that 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 on the basis of the aforesaid Rules of Procedure and 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. The Appeals Tribunal, *inter alia*, found that:

43. Where the implementation of an administrative decision is imminent, through no fault or delay on the part of the staff member, and takes place before the five days provided for under Article 13 of [the Dispute Tribunal's, "UNDT"] Rules have elapsed, and where the UNDT is not in a position to take a decision under Article 2(2) of the UNDT Statute, i.e. because it requires further information or time to reflect on the matter, it must have the discretion to grant a suspension of action for the

