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## Considerations

9. Applications for suspension of action are governed by arts. 2.2 and 10.2 of the Statute of the Dispute Tribunal and arts. 13 and 14 of the Tribunal's Rules of Procedure.

10. Article 2.2 governs applications for suspension of actions pending management evaluation whereas art. 10.2 governs, inter alia, suspensions of action at any time during the proceedings.

11. The three statutory prerequisites contained in the Statute for the grant of the interim relief of suspension of action, that is, *prima facie* unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted where the contested decision is the subject of a management evaluation.

12. The three statutory prerequisites contained in art. 2.2 of the Statute, that is, *prima facie* unlawfulness, urgency and irreparable damage, must be satisfied for an application for suspension of action to be granted where the contested decision is the subject of a management evaluation.

13. The wording of art. 2.2 makes it clear that the Tribunal has no authority to order suspension of action on a decision once the management evaluation has been completed.

14. The Appeals Tribunal in *Tadonki* 2010-UNAT-005<sup>1</sup>, *Onana* 2010-UNAT-008<sup>2</sup> and *Kasmani* 2010-UNAT-011<sup>3</sup> found that the Dispute Tribunal had exceeded the limits of the jurisdiction conferred on it by article 2.2 of its Statute when it ordered the suspension of the execution of the contested decision beyond the date on which the management evaluation was completed.

15. The suspension of the execution or implementation of an administrative decision constitutes an exception that cannot be extended beyond

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<sup>1</sup> At para. 10.

<sup>2</sup> At para. 19.

<sup>3</sup> At para. 11.

the limits and prohibitions established by the Statute since, otherwise, the legislative texts, spirit, and goals underlying them would be ignored or violated<sup>4</sup>.

16. In the present case, the Tribunal notes that the management evaluation was completed on 12 January 2015, thus rendering moot this Application for suspension of action.

### **Conclusion**

17. In view of the foregoing, the Application for suspension of action is rejected.

*(Signed)*

Judge Nkemdilim Izuako

Dated this 20<sup>th</sup> day of January 2015

Entered in the Register on this 20<sup>th</sup> day of January 2015

*(Signed)*

Abena Kwakye-Berko, Registrar, Nairobi

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<sup>4</sup> *Igbinedion* 2011-UNAT-159 at para. 20.