



UNITED NATIONS DISPUTE TRIBUNAL

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Case No.: UNDT/NY/2017/069  
Order No.: 133 (NY/2017)  
Date: 17 July 2017  
Original: English

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**Before:** Judge Ebrahim-Carstens

**Registry:** New York

**Registrar:** Hafida Lahiouel

KAMARA-JOYNER

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**  
Natalie Dyjakon, OSLA

**Counsel for Respondent:**  
ALS/OHRM

## **Introduction**

1. On 14 July 2017, the Applicant, a Conflict Resolution Officer at P-4, step 13, level in the Office of the United Nations Ombudsman and Mediation Services (“UNOMS”) in New York, filed an application under art. 2.2 of the Dispute Tribunal’s Statute and art. 13 of its Rules of Procedure seeking to suspend the decision, pending management evaluation, not to select her but another candidate, for the temporary position of Regional Ombudsman at the P-5 level in Vienna. The Applicant alleges that the decision was based on the discriminatory and unlawful grounds of her ethnicity.

2. Together with her application, referring to arts. 19 and 36.1 of the Dispute Tribunal’s Rules of Procedure and the Appeals Tribunal’s judgment in *UNAT/2011/160*, the Applicant also filed a motion requesting that the contested decision be suspended pending the Tribunal’s consideration of the suspension of action proceedings. She submits that the selected candidate “will enter into a formal contract with the Administration and begin working as a Regional Ombudsman in Vienna within the next few days”. She submits once such decision is implemented

UNDT/2009/092; ~~h~~ Order No. 83 (NY/2011); Adundo *et al* Order No. 8  
(NY/2013); ~~h~~ Order No. 60 (NY/2014)).

4. Pursuant to art. 19 of the R

reflect on the matter, it must have the discretion to grant a suspension of action for these five days. To find otherwise would render Article 2(2) of the UNDT Statute and Article 13 of the UNDT Rules meaningless in cases where the implementation of the contested administrative decision is imminent.

8. The Tribunal notes that although the Applicant states that she was notified of the decision on 13 June 2017, a month ago, she maintains that there were several discussions and attempts to resolve this matter following her inquiries and serious allegations of discrimination on the grounds of her ethnicity. She refers to several meetings and conversations and has attached a number of emails and correspondences setting out overtures and attempts at discussing and resolving this matter informally, including but not limited to emails between herself and the Executive Office of the Secretary-General and meetings with senior personnel of UNOMS. The Office of the Secretary-General referred the matter back to UNOMS upon whose response the Applicant states she waited in vain only to discover the impending implementation of the contested decision. The Applicant eventually resolved to refer this matter to her legal counsel only after she feared she was misled into believing there would be further discussions before any final decision.

9. The Tribunal is satisfied that the requirements for an interim order pending the Tribunal's determination of a suspension of action as set out in *W ma* by the Appeals Tribunal have been satisfied. The Tribunal notes that this matter is not at the merits stage, and that the Respondent has not had an opportunity to reply, and it does not have all the information before it. The Tribunal is satisfied that the urgency was not self-created and that the Applicant attempted to informally exhaust internal remedies within UNOMS (as a matter of interest, the Tribunal is unaware where staff grievances from this Office would be referred to for independent mediation in any particular case). The Tribunal also notes that there were efforts on both sides to resolve this matter—this is in the interests of all concerned and the Tribunal encourages and commends such amicable solution. According to the information before the Tribunal, the contested decision has not been implemented.

10. In accordance with arts. 19 and 36.1 of the Dispute Tribunal's Rules of Procedure,

IT IS ORDERED THAT:

11. Without prejudice to the Tribunal's