



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2023/039

Judgment No.: UNDT/2024/026

Date: 30 April 2024

Original: English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: René M. Vargas M., Officer-in-Charge

BARAZA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Sètonджи Roland Adjovi, *Etudes Vihodé*

Counsel for Respondent:

Camila Nkwenti, UNEP

Introduction

1. By an application filed on 26 April 2023, the Applicant contests the decision of the Executive Director, United Nations Environment Programme (“UNEP”), to close the complaint she filed with the Office of Internal Oversight Services (“OIOS”) alleging harassment and abuse of authority by her former Second Reporting Officer (“SRO”).
2. The Applicant requested a hearing at which she proposed to call 12 witnesses. She also has requested the production of many documents from the Respondent.
3. The Applicant sought the following remedies from the Tribunal:
 - a. Finding that the Applicant was harassed by her former SRO;
 - b. Rescission of the decision to close the Applicant’s report and referral of the case back to UNEP to conduct a full and proper investigation; and
 - c. Compensation for harm.
4. The Respondent filed his reply, arguing that the contested decision was lawful.
5. Following a case management discussion, the Applicant filed a written summary of the testimony anticipated from the witnesses she proposed to call and the reasons she argued for production of documents.
6. The Tribunal determined that the record is sufficient for adjudication without the need for an oral hearing.
7. The parties filed closing submissions on 15 April 2024.

Facts

8. The Applicant joined UNEP in 2018, as a Team Assistant, Administrative Services, Ecosystems Division, at the G-4 level in Nairobi.

9. In May 2022, the Applicant was promoted to her current position, at the G-5 level, in New York.

10. While at UNEP in Nairobi, the Applicant's SRO was the Chief of Administrative Services, Ecosystems Division.

11. In February 2021, the Applicant was responsible for coordinating the competency-based interviews for the candidates competing for Job Opening 140108, Chief of Branch, D-1, Nairobi ("JO140108").

12. The Applicant's then SRO was the secondary Hiring Manager in Inspira for JO140108, but she was not part of the interview panel. The interview panel consisted of three people and was chaired by the Director, Ecosystems Division, UNEP, Nairobi Headquarters.

13. On 16 February 2021, the Applicant's SRO requested the Applicant to copy her on the communication of the draft of the interview report to the interview panel's Chair.

14. On 17 February 2021, the Applicant communicated with two colleagues seeking their views on whether to share the draft interview report with her SRO since she was not part of the interview panel. One of those colleagues advised the Applicant to "play it safe and ensure she follows the standard procedures". On 18 February 2021, the Applicant also communicated with one of the panel members on the same topic.

15. On 8 April 2021, the Applicant filed a complaint with OIOS, alleging, *inter alia*, harassment and abuse of authority by her SRO. She supplemented her complaint on 9 April 2021 and on 12 April 2021.

16. The Applicant alleges that in the course of the recruitment process for JO140108 in February 2021, her SRO demanded that she share with her the draft report of the interview panel.

17. The Applicant refused on the basis that her SRO was not a panel member and that the documents in question were confidential and confined to the members of the panel only.

18. The Applicant further alleges that as a result of her refusal to share the draft of the report, her SRO retaliated against her by reassigning her tasks to other staff members and preventing her from participating in interviews for other selection exercises.

19. Further, the Applicant alleges that in July 2021, she was reassigned from the Administrative Service Branch, Human Resources Administration Unit (“ASB/HRAU”) to the Programme Support Unit (“PSU”), on the basis that her position was no longer needed in the Administrative Service Branch. However, after she vacated the position in May 2022 and was reassigned upon promotion to New York, the position she previously held was readvertised in August 2022.

20. On 17 May 2021, OIOS informed the Applicant as follows (emphasis in the original):

OIOS management has carefully reviewed your report to this office, dated 8 April 2021, and considers that your complaint falls within the application of ST/SGB/2019/8 “Addressing discrimination, harassment, including sexual harassment, and abuse of authority.” In accordance with that bulletin, OIOS would like to refer your complaint to the Executive Director, United Nations Environment Program (ED/UNEP), copying the persons responsible for monitoring ST/SGB/2019/8 complaints within the Department of Management Strategy, Policy and Compliance (DMSPC).

To allow ED/UNEP to thoroughly review and assess this matter, please let us know as soon as possible, but on or before **21 May 2021**, if you consent to our sharing with ED/UNEP, your identity and the information you submitted to OIOS.

21. On 26 May 2021, the Applicant wrote to OIOS requesting to put the matter on hold. She raised a concern that, despite shielding her identity and withholding supporting documents, it would still be evident that the complaint originated from her.

22. On 6 July 2021, the Applicant attended a virtual meeting in which she was informed of the decision to reassign her from ASB/HRAU to PSU as her position was no longer needed within ASB/HRAU.

23. On 9 July 2021, the Applicant wrote to OIOS informing of the decision to reassign her. She indicated that the reassignment decision was a backlash from her SRO as a result of the previously reported matter.

24. On the same day, OIOS acknowledged receipt of the Applicant's additional information and requested her to confirm if she still wished not to reopen the case and whether the additional information was merely for record purposes.

25. On 13 July 2021, the Applicant received communication of her reassignment to PSU.

26. On 22 July 2021, the Applicant responded to OIOS on the issue of reopening the case. She indicated that:

Yes, the additional information was for the record of my Case, which as earlier stated I would definitely re-visit once I deem it safer to re-open. At this point [X] is still my FRO/Head of Branch so could easily frustrate me or make attempts to jeopardize my career like she has clearly shown she intends to do.

27. In May 2022, the Applicant was promoted to a G-5 position in New York and she assumed her current position.

28. On 15 July 2022, having assumed new responsibilities in New York and left Nairobi, the Applicant requested OIOS to reopen her case.

29. On 29 July 2022, OIOS sought the Applicant's consent to forward her complaint to UNEP. OIOS wrote (emphasis in the original):

To allow ED/UNEP to thoroughly review and assess this matter, please let us know as soon as possible, but on or before **4 August 2022**, if you consent to our sharing with ED/UNEP, your identity and the information you submitted to OIOS.

30. The Applicant responded to OIOS on the same day and gave her consent to sharing her identity and information with ED/UNEP.

31. On 3 August 2022, OIOS referred the Applicant's matter to UNEP for the appropriate action to be taken.

32. Upon receipt of the matter from OIOS, the UNEP Executive Director assigned the Corporate Services Division ("CSD") to conduct a preliminary assessment of the report pursuant to secs. 5.4 and 5.5 of ST/AI/2017/1 (Unsatisfactory conduct, investigations and the disciplinary process) and ST/SGB/2019/8. The preliminary assessment reviewed the following aspects, which were raised in the complaint: the refusal to share the panel report with the SRO, the reassignment of the Applicant and the reason for this reassignment, the readvertisement of the G-4 position and the extension of the Applicant's appointment. As per the applicable rules, the review focused on the need to determine whether an investigation should be initiated or not.

33. The Respondent asserts that during the preliminary assessment, CSD contacted the Applicant's former SRO and the Chief of Unit, Human Resources Management, UNON. The Applicant's former SRO was contacted since the complaint was filed against her. The Chief of Unit was contacted since the complaint related to the way the recruitment was conducted and the confidentiality of the panel report. CSD did not contact the Applicant as she had provided an exhaustive complaint with all documentation. The complaint was referred to UNEP with all the documentation shared with OIOS.

34. On 17 October 2022, UNEP finalized the preliminary assessment of the complaint.

35. On 21 November 2022, UNEP informed OIOS of the finalization of the preliminary assessment with the following conclusions:

a. There was no violation of confidentiality as regards the sharing of the panel report with the SRO as the SRO was listed as one of the Hiring Managers for the position and had access to the report in Inspira. The Human Resources Management Service (“HRMS”), UNON, also confirmed this;

b. There was no delay in the extension of the Applicant’s appointment. The extension of her appointment was subject to the completion of her e-PAS. Once her e-PAS was completed on 7 May 2021, her contract was extended on 10 May 2021;

c. The readvertisement of the Applicant’s position is a legitimate decision made by the Ecosystems Division, considering the needs within the concerned Office;

d. An investigation will not be initiated; and

e. The matter has been closed.

36. On 22 November 2022, both the Applicant and her former SRO were informed by UNEP of the closure of the case (“contested decision”).

37. On 26 December 2022, the Applicant requested management evaluation of the decision to close her case. On 27 January 2023, the Management Evaluation Unit upheld the contested decision.

Consideration

Applicable law

38. The procedure for handling complaints is set forth in ST/AI/2017/1, which provides:

5.3 If OIOS/ID determines that the matter is better handled by the responsible official, it shall send the matter back to the responsible official, who shall conduct a preliminary assessment to determine whether an investigation is warranted.

...

5.5 In undertaking the preliminary assessment, the following factors may be considered:

(a) Whether the unsatisfactory conduct is a matter that could amount to misconduct;

(b) Whether the provision of the information of unsatisfactory conduct is made in good faith and is sufficiently detailed that it may form the basis for an investigation;

(c) Whether there is a likelihood that an investigation would reveal sufficient evidence to further pursue the matter as a disciplinary case;

(d) Whether an informal resolution process would be more appropriate in the circumstances;

(e) Any other factor(s) reasonable in the circumstances.

5.6 Upon conclusion of the preliminary assessment, the responsible official shall decide to either:

(a) Initiate an investigation of all or part of the matters raised in the information about unsatisfactory conduct; or

(b) Not initiate an investigation.

5.7 In cases where the responsible official decides not to initiate an investigation, the responsible Official should decide either to close the matter without further action or to:

(a) Take managerial action, without prior consultation with the staff member; and/or

(b) Issue a written or oral reprimand, provided the staff member has had the prior opportunity to comment in writing on the facts and circumstances, in accordance with staff rule 10.2 (c).

39. The jurisprudence in this area is very clear. The bringing of disciplinary charges is the privilege of the Organization itself, and it is not legally possible to compel the Administration to take disciplinary action (*Benfield-Laporte*, 2015-UNAT-505, para. 37 and *Abboud*, 2010-UNAT-100, para. 34). As a result, “[t]he Administration has a degree of discretion as to how to conduct a review and assessment of a complaint

and whether to undertake an investigation regarding all or some of the allegations” (*Nadeau*, 2017-UNAT-733/Corr.1, para. 33, citing *Benfield-Laporte*, supra).

40. The Appeals Tribunal has observed that “[o]nly in particular situations, i.e. in a case of a serious and reasonable accusation, does a staff member have a right to an investigation against another staff member which may be subject to judicial review” (*Id.*).

41. Furthermore, “[t]here are situations where the only possible and lawful decision of the Administration is to deny a staff member’s request to undertake a fact-finding investigation against another staff member” (*Id.*).

42. A fact-finding investigation “may only be undertaken if there are ‘sufficient grounds’ or, respectively, ‘reason[s] to believe that a staff member has engaged in unsatisfactory conduct for which a disciplinary measure may be imposed. Consequently, if there are not such grounds or reasons, the Administration is not allowed to initiate an investigation against a staff member” (*Id.*, para. 34).

43. The Appeals Tribunal has also held that the denial of an investigation is not an “administrative decision” subject to judicial review unless the denial is “shown to adversely affect the rights or expectations of the staff member and have a direct legal effect” (*O’Brien*, 2023-UNAT-1313, para.30).

Preliminary procedural issues

44. Before addressing the merits of the application, there are several procedural issues to be resolved.

Request for oral hearing

45. As a preliminary matter, the Tribunal will examine the Applicant’s request for an oral hearing. In doing so, the Tribunal recalls that article 16.1 of its Rules of Procedure vests discretion in it as to whether an oral hearing should be held. (See also, *Nadeau*, para. 31).

46. In her application, the Applicant does not expressly state the reason why a hearing is necessary. However, her first requested remedy—a “finding that the Applicant was harassed by [her SRO]”—implies that she wants the Tribunal to hear witnesses and independently find facts as to her claim of harassment and, based on those findings, to “refer the case back to UNEP to conduct a full and proper investigation of the facts, including interviewing the Applicant and other witnesses highlighted in [the] application”.

47. In examining the need for a hearing, the Tribunal directed the Applicant to submit a summary of the testimony each of her witnesses would be expected to give at a hearing. The response confirms that the Applicant wishes to litigate before the Tribunal the substance of her allegations of harassment.

48. This misunderstands the Tribunal’s authority, which is simply to review the administrative decision and ascertain whether it was legal, reasonable, and procedurally fair (*Samwidi*, 2010-UNAT-084). It is beyond the Tribunal’s authority to make independent findings or to order the Administration to conduct an investigation, and to micromanage that investigation by directing who should be interviewed. Thus, there is no need for an oral hearing in this case and the Applicant’s request is denied.

Request for production of documents

49. The same is true regarding the Applicant’s request for production of documents. Article 18.2 of the Tribunal’s Rules of Procedure vests discretion in it to order the production of documents when it appears they are “necessary for a fair and expeditious disposal of the proceedings”.

50. The documents that the Applicant seeks are all directed at attempting to support her request that the Tribunal make a finding that the Applicant was harassed by her former SRO. That is not the proper role of the Tribunal in this case, so the request for production of documents is denied.

Anonymization

51. On 8 April 2024, the Respondent filed a request to anonymize the name of the Applicant's former SRO, whose alleged actions were the subject of the Applicant's complaint to OIOS. The Applicant "strongly objects to the request".

52. Article 11.6 of the Tribunal's Statute and art. 26 of its Rules of Procedure provide that judgments of the Tribunal shall be published, while protecting personal data. As the Appeals Tribunal has observed "the names of litigants are routinely included in judgments of the internal justice system of the United Nations in the interests of transparency and, indeed, accountability" (*Lee* 2014-UNAT-481). This principle should only be departed from where the applicant shows "greater need than any other litigant for confidentiality" (*Pirnea* 2014-UNAT-456).

53. The Respondent argues that keeping the name of the Applicant's former SRO is necessary to avoid prejudice to that person in their professional reputation and future job applications. Specifically, the Respondent argues that "[i]t is highly likely that that potential employers might believe that [they] harassed or abuse [their] authority while working with UNEP".

54. The Applicant objects on the grounds that the request "was made so late in the process", that the name of her former SRO is already in the public domain since 16 February 2024 when this Tribunal issued its Order No. 22 (NBI/2024), and that it is impossible to enforce anonymity retroactively since the Tribunal "is unable to remove it from the archives of the Internet".

55. The Applicant also claims that the claimed prejudice is speculative and that "the Applicant does not see any risk for [her former SRO] that she does not bear as well".

56. Finally, the Applicant points out that the Respondent has taken a different position on other cases and, in this case, has failed to meet the high threshold required for anonymization.

57. The Applicant is correct that the Respondent has taken inconsistent positions regarding anonymization in various cases and contexts. However, clearly a reasonable distinction can be made between the litigants themselves and other persons (such as witnesses or those tangentially related to the litigation). The former have voluntarily chosen to participate in the case (and the attendant publication of their names), while the latter have not. Thus, the Applicant's argument that she and her former SRO bear the same risk is not persuasive.

58. Nor is the Applicant's argument about the timing of the request. The request was made before the judgment was issued, so it is not too late. In addition, the fact that a prior order was issued naming the Applicant's former SRO does not alter the analysis since every additional publication creates greater risk.

59. As for the risk to the former SRO by publishing their name, predicting future harm involves some speculation by its very nature. However, it does seem reasonable to predict that potential employers could assume the truth of the Applicant's allegations about her former SRO, and that this would adversely affect the professional reputation and employment prospects of the former SRO.

60. This risk is even more pronounced when the allegations have not been proven to be true, given the nature of this case and the prevailing law. It is not hard to imagine a future case where a staff member, out of pure spite, makes unfounded allegations against a supervisor and then files an application with the Dispute Tribunal to amplify those allegations. Surely that is not the goal of the transparency principle of the Tribunal's guiding documents.

61. In balancing the competing various interests in this case, there is no harm to any person, organization, or principle by anonymizing the name of the Applicant's former SRO who is a mere bystander to the litigation. On the other hand, the potential harm to the professional reputation and future employment prospects of the former SRO is valid. Accordingly, the request for anonymity will be granted.

Receivability

62. It is incumbent upon the Tribunal to determine whether any case is within its competence to adjudicate.

63. Article 2.1(a) of the UNDT Statute provides that the Dispute Tribunal is competent to hear and pass judgement on an appeal from “an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment”. The Appeals Tribunal has explained that this provision establishes a “jurisdictional precondition of an immediate, direct, and adverse impact” of the challenged administrative decision upon the staff member (*O’Brien*, para. 30).

64. In this case, there has been no showing of such adverse impact. The essential facts, as set forth in the application, are that:

- a. On 8 April 2021, the Applicant filed a complaint with OIOS alleging harassment by her SRO;
- b. On 17 May 2021, OIOS wrote of its intention to refer the complaint to the Executive Director of UNEP for assessment;
- c. On 26 May 2021, “the Applicant advised OIOS that she wished to place the case on hold”;
- d. Over the next two months, the Applicant periodically provided updates to OIOS, but on 22 July 2021 she reiterated her wish to have the case be left on hold;
- e. In May 2022, the Applicant was promoted to a G-5 position in New York and reported for duty on 16 May 2022;
- f. On 15 July 2022, the Applicant requested OIOS to reactive the case and two weeks later consented to have the complaint referred to the Executive Director of UNEP; and

g. On 22 November 2022, the Executive Director of UNEP wrote to the Applicant indicating that after review of “the information and documents from [your former SRO], the feedback from UNON HRMS and the information and documents you provided to OIOS/ID, we would like to inform you that the matter has been closed”. This is the contested decision.

65. The Applicant does not specifically allege any adverse impact from the contested decision. The only reference to adverse impact is the following conclusory statement in para. 46 of the application: “[i]t is the detrimental actions taken subsequently by [the Applicant’s former SRO] and the decision to close the complaint regarding those detrimental actions directly impacting the terms and conditions of the Applicant’s appointment which are the subject of this legal challenge”.

66. When setting the deadline for the parties to file closing submissions, the Tribunal expressly directed them to “address the issue of receivability in light of UNAT’s recent decision in *O’Brien*, 2023-UNAT-1313”. The Applicant’s submission was interesting and revealing.

67. First, in para. 16 of her closing arguments, the Applicant wrote (emphasis in the original):

While the goal described that “*the impact or consequences of a disputed decision must be based on objective elements that both parties can accurately determine*” is ideal, it can at best be described as aspirational. If the statement were in fact true such that both parties could “accurately determine” and agree as to the impact or consequences of a disputed decision, then there would not be a role for the Tribunal to make rulings, make orders or issue judgements [sic].

68. A reading of *O’Brien, supra*, makes it clear that the standard set forth in that case is not merely an aspirational goal but a jurisdictional requirement for receivability. In the absence of facts to show adverse effects, there is in fact no role for the Tribunal since it has no jurisdiction to hear the case. Indeed, that is expressly the holding of the Appeals Tribunal in *O’Brien*, para. 30.

69. In para. 17 of her closing arguments, the Applicant also argues that “the Tribunal has consistently held that OIOS is part of the Secretariat and therefore its decisions are reviewable by the Tribunal”. While that may be so, it is irrelevant to this case.

70. The Applicant has consistently stated that the contested decision is the decision to close her complaint, which was made by the Executive Director of UNEP on 22 November 2022. See, e.g., the Applicant’s application, sec. V, paras. 1-2 and sec. VII, para. 38; annex 01 to the application (Contested Administrative Decision); and annex 02 to the application (Request for Management Evaluation).

71. Apparently, the Applicant now wishes, at the eleventh hour, to change the contested decision from the UNEP Executive Director’s decision (to close the complaint) to the earlier decision by OIOS to refer the case to the Executive Director of UNEP. However, it is important to note that the Applicant expressly consented to the referral (see, the Applicant’s application, para. 38). And, having consented, she did not request management evaluation of the referral decision of OIOS to the Executive Director of UNEP. Of course, management evaluation is an essential requirement for receivability in non-disciplinary cases (see, UNDT Statute, art. 8.1.(c)).

72. In para. 18 of her closing arguments, the Applicant argues that (emphasis in the original):

When considering whether the actions taken “*adversely affect the rights or expectations of the staff member and have a direct legal effect*”, the Tribunal must consider that every administrative issuance promulgated in accordance with Section 1.2 of ST/SGB/2009/4 (“*Procedures for the promulgation of administrative issuances*”), including the Staff Rules and Regulations and every ST/SGB and ST/AI directly impact the rights and the terms and conditions of a staff member’s contractual relationship with the organization.

73. This argument is merely a rejection of the *O’Brien* holding and of the limitations set forth by the General Assembly in the UNDT Statute.

74. Finally, the Applicant reiterates her perceptions about how she was treated by her former SRO, which gave rise to her initial complaint to OIOS. Of course, this case does not deal with the alleged detrimental actions taken by the Applicant's former SRO but only with the decision to close the complaint about those alleged detrimental actions. There is not a single factual allegation about how the Applicant suffered any adverse impact from that decision.

75. The law requires that "[t]he impact or consequences of a disputed decision must be based on objective elements that both parties can accurately determine" (*O'Brien*, para. 30). In this case, an objective examination of the facts in the record indicates that, while the Applicant's complaint was pending (but on hold at her request), the Applicant was promoted and moved duty stations from Nairobi to New York. Thus, she is across the globe and no longer under the authority of her former SRO against whom she directed her complaint. In other words, and in the Applicant's own language, "she was no longer in the direct line of fire" of her former SRO against whom she complained.

76. In the absence of any showing of immediate, direct, and adverse impact from the decision to close the investigation, the Tribunal lacks jurisdiction to hear this case and, thus, it is not receivable.

Was the decision unlawful?

77. Even if the application were receivable, it lacks merit because the decision was lawful.

78. The complaint alleged that the Applicant was assigned the "role of panel reporting" for a recruitment exercise and that, in that role, she refused a request from her then SRO to be provided with "the draft panel report as [she] shared it to the panelists for review/editing". The Applicant's former SRO demanded an explanation for "defying orders from [her] senior" and then retaliated against her. This retaliation was manifest in several ways, particularly delaying the extension of her appointment (with an intention not to renew it), and reassigning her to a new position (on the false basis that there was no need for her old position).

79. After a preliminary assessment was conducted, the Executive Director concluded that:

a. There was no confidentiality problem with sharing the panel report with the SRO, who was listed as one of the Hiring Managers for the recruitment and had access to the report in Inspira;

b. There was no retaliatory delay when extending the Applicant's appointment. Once her e-PAS was completed on 7 May 2021, the contract was extended on 10 May 2021, which was about a month after she raised the request for extension in the system; and

c. The reassignment was valid due to the needs of the unit at that time. The readvertisement of the Applicant's [previous] position after she vacated it a year later was a legitimate decision made by the Ecosystems Division considering the current needs with the concerned Office.

80. The application alleges that the decision was unlawful because no justification was provided in the closure letter sent to the Applicant, and neither she nor her witnesses were interviewed (see, the Applicant's application paras. 43-44).

81. As noted above, the Executive Director of UNEP is vested with discretion to make an assessment as to whether an investigation is necessary. ST/AI/2017/1 expressly provides that the responsible official *may* make further enquiries from those believed to have relevant information including both the complainant and the subject of the complaint. There is no requirement to interview these or any other particular persons.

82. As referred to in para. 38 above, ST/AI/2017/1 lists several factors that the responsible official *may* consider in determining if an investigation is needed. Although the Executive Director did not expressly reference them, it is clear from the record that they were considered.

83. The determination that there was no violation of confidentiality necessarily means that there was no unsatisfactory conduct in requesting to be provided a copy of the draft interview panel report. It should be noted that even in her complaint where she alleged the confidentiality violation, the Applicant acknowledged “though I stand [to be?] corrected on this”. And in her application, she says that whether there “was officially a breach of confidentiality and whether [her former SRO] was listed as a Hiring Manager in the recruitment portal (Inspira) ... is totally irrelevant” (see, the Applicant’s application, para. 46).

84. The same is true regarding the determinations that there was no retaliatory delay in approving the extension of the Applicant’s appointment or in reassigning her based on current needs of the various units.

85. Any delay in approving the Applicant’s extension was found to be the result of valid administrative issues. Moreover, the improper motive alleged (an intention not to renew her appointment) was contradicted by the fact that her appointment was renewed.

86. As for the reassignment, the Applicant did not object at the time and never contested the decision to reassign her. In fact, she wrote at the time that “[a]lthough it is basically a relatively new career environment, I would give it a try and join the PSU team, hopefully with value addition”.

87. Given no retaliation, there can be no unsatisfactory conduct to investigate. Accordingly, the Executive Director’s decision to not conduct an investigation was lawful.

Conclusion

88. For the reasons set forth above, the Tribunal DECIDES to:

- a. Grant the Respondent’s request for anonymity of the Applicant’s former SRO;

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- b. Deny the Applicant's request for an oral hearing and for production of documents; and
- c. Deny the application as both not receivable and on the merits.

(Signed)

Judge Sean Wallace

Dated this 30th day of April 2024

Entered in the Register on this 30th day of April 2024

(Signed)

René M. Vargas M., Officer-in-Charge, Nairobi