



**Before:** Judge Margaret Tibulya.

**Registry:** Nairobi

**Registrar:** Abena Kwakye-Berko

MUTUA

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER SUSPENDING  
PROCEEDINGS PENDING AN  
ATTEMPT AT MEDIATION**

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**Counsel for the Applicant:**  
Self-represented

**Counsel for the Respondent:**  
Elizabeth Brown, UNHCR

### **Introduction and Procedural History**

1. At the time of application, the Applicant was serving as Resettlement Assistant with the United Nations High Commissioner for Refugees (UNHCR) sub-office in Kakuma, Kenya.
2. The Applicant was separated from service for misconduct on 9 March 2018.
3. On 7 May 2018, the Applicant filed an application with the United Nations Dispute Tribunal in Nairobi challenging the Respondent's decision to dismiss her from service.
4. The Respondent filed his reply to the application on 11 June 2018.
5. On 4 December 2019, the Tribunal issued Order No.204 (NBI/2019) setting this matter down for a case management discussion. The Tribunal also advised the Applicant to seek the assistance of counsel, and to that end directed service of the Order on the Office of Staff Legal Assistance (OSLA).
6. On 6 December 2019, OSLA informed the Registry that the Office will not be representing the Applicant.

### **The Discussion**

7. On 9 December 2019, the case management discussion took place as scheduled.
8. The Tribunal sought the Parties' views on their willingness to see this matter resolved amicably and without recourse to litigation.
9. Counsel for the Respondent informed the Tribunal that the Respondent is open to this matter being settled that way.
10. The Applicant while initially reluctant to have this matter informally resolved, agreed to the matter being referred to the Office of the Ombudsman and Mediation

Services (OMS).

11. The Respondent told the Court that this is a sensitive case, and that there are serious security and protection considerations that need to be decided upon before the matter proceeds to trial.

### **Directions and Orders**

12. The Tribunal strongly believes that the Parties should engage in meaningful consultations towards having this matter resolved. In the interests of efficient use of the Tribunal's resources and the expeditious conduct of proceedings, as well as the security and protection issues that are alive in this case, the Tribunal, pursuant to arts. 10.3 of the UNDT Statute and 15.1 of the Rules of Procedure, firmly urges the Parties in this matter to consult and deliberate in good faith, with the assistance of the Ombudsman, towards having this matter informally resolved.

13. The Tribunal therefore makes the following **ORDERS**:

- i. The Registry is **DIRECTED** to serve a copy of this Order on the Office of the Ombudsman and Mediation Services (OMS);
- ii. The Parties and/or OMS should advise the Tribunal on the status of mediation by **28 February 2020**;
- iii. The proceedings in the matter of *Mutua v Secretary General of the United Nations* (UNDT/NBI/2018/055) are hereby suspended pending mediation.

*(Signed)*

Judge Margaret Tibulya

Dated this 9<sup>th</sup> day of December 2019

Entered in the Register on this 9<sup>th</sup> day of December 2019

*(Signed)*

Eric Muli, Legal Officer, for,  
Abena Kwakye-Berko, Registrar, Nairobi