



**Before:** Duty Judge

**Registry:** Nairobi

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

ROESKE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER  
ON THE APPLICANT'S MOTION TO  
AMEND THE APPLICATION AND  
APPLICANT'S MOTION FOR  
CHANGE OF VENUE**

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**Counsel for Applicant:**

Monika Ona Bileris

**Counsel for Respondent:**

Rebecca Britnell, UNHCR

## **Introduction**

1. On 15 March 2024, the Applicant filed an application challenging the decision to not reimburse her the 2022 US income taxes (IRS and California State) and pay for the estimated tax payment for 2023 taxes (IRS and California State).
2. On 13 May 2024, the Applicant filed a change of Counsel form, notifying the Tribunal that she had retained new counsel as of 10 May 2024.
3. On 17 May 2024, the Applicant filed a motion to amend her application, and a separate motion for change of venue from Nairobi to New York.
4. Both motions were served on the Respondent on 21 May 2024. The Respondent filed his response to the two motions on 28 May 2024.

## **Consideration**

5. The Tribunal notes that the Applicant does not clearly specify the exact amendments she wishes to make on her application. She only states that:

The Applicant requests leave to amend her application because her previous attorneys filed it without showing her the final product and without taking her concerns into consideration. The Applicant now has new counsel and, in the interests of justice, wishes to correct this error.

6. The Respondent opposes the Applicant's motion to amend the application, arguing.

First, the Applicant was represented by counsel at the time of filing her application. The Respondent submits that she cannot now, having changed legal counsel, seek to improve her case based on a second legal opinion. To do so would not be in the interests of justice. Furthermore, while the Applicant has submitted that her previous counsel filed the Application without showing her the final product and without taking her concerns into consideration, the Respondent notes that the record is inconsistent with this submission: the Applicant personally signed the Application, certifying that to the best of her knowledge the information provided in the Application is true, accurate and complete and all copies submitted to the Dispute Tribunal are true copies of the original documents. The Applicant's legal representatives also signed the Application, but not in lieu of the Applicant.

7. The Tribunal observes that it is not in a position to rule on the motion to amend the application, since the Applicant did not clearly specify the amendments, she wishes to make on the application. There is a need, therefore, for the Applicant to specify the proposed amendments, by filing a proposed Amended Application indicating the new insertions in bold and the deletions in the text by striking out the amended words.

8. With respect to the Motion for Change of Venue, the Applicant argues that: (1) her duty station was fully remote (Home Based) from the United States at the request of the Organization; (2) that she never worked from the Nairobi duty station and only from her home in California, USA, which is 10 hours behind Nairobi; (3) the contested decision was not taken in Nairobi and so the decision makers are not proximate to Nairobi; (4) her attorney is located in New York; and (5) moving the case to New York would facilitate witness participation since the case involves a U.S. tax matter.

9. The Tribunal further notes that the Respondent does not oppose the Applicant's motion for change of the venue.

10. The undersigned duty judge in Nairobi has consulted with the duty judge in New York regarding this matter. Both judges agree that changing venue from Nairobi to New York would be appropriate for the fair and expeditious disposal of the case to do justice to the parties. Thus, the motion for change of venue will be granted.

### **Conclusion**

11. In view of the foregoing, it is ORDERED THAT:

- a. On or before **Friday, 28 June 2024**, the Applicant will file her proposed Amended Application indicating the intended amendments by highlighting in bold the new insertions made and by striking out the words being removed in the application.

b. On or before **Friday, 12 July 2024**, the Respondent, if he so wishes, shall file his reply addressing the proposed amendments.

c. The case will be transferred to the Registry in New York, where the Motion to Amend Application will be ruled upon by the assigned or duty judge after consideration of the additional filings described above.

*(Signed)*

Judge Sean Wallace (Duty Judge)

Dated this 14<sup>th</sup> day of June 2024

Entered in the Register on this 14<sup>th</sup> day of June 2024

*(Signed)*

Shamila Unnikrishnan, Legal Officer for René M. Vargas, Officer-in-Charge,  
Nairobi