



**Before:** Judge Francesco Buffa

**Registry:** Nairobi

**Registrar:** Wanda L. Carter

NGIGI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON CASE MANAGEMENT**

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**Counsel for Applicant:**

Kelvin Njuguna, TripleOKLaw Advocates LLP

**Counsel for Respondent:**

Sandra Lando, UNHCR  
Elizabeth Brown, UNHCR

## **Introduction**

1. The Applicant is a former staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) in Kenya. On 27 February 2024, she filed an application contesting the High Commissioner’s decision to dismiss her from service pursuant to staff rule 10.2(a)(ix).
2. The Respondent filed a reply to the application on 2 April 2024.
3. By Order No. 61 (NBI/2024)2024-NBI-061 dated 30 May 2024, the Duty Judge instructed the Applicant to file a rejoinder and asked the parties to explore resolving the dispute amicably and revert to the Tribunal in this respect.
4. On 14 June 2024 the Applicant filed her rejoinder.
5. On 28 June 2024 the parties informed the Tribunal that they were unable to settle the dispute amicably in this case.
6. The case was assigned to the undersigned Judge on 5 August 2024.
7. By Order No. 2024-NBI-120 dated 3 September 2024, the Parties were invited to inform the Tribunal if they wished to call witnesses and to take position on the counterparty’s evidentiary requests.
8. On 6 September 2024, the Applicant requested to call two witnesses, the Applicant herself and Ms. Monica Mburu, the former Lutheran World Federation (“LWF”) Peacebuilding and Conflict Resolution Officer.
9. On the same date, the Respondent submitted that it was not necessary to call any witnesses and that the case could be adequately adjudicated based on the documents in the record.
10. On 9 September 2024, the Respondent objected to the Applicant’s requests to call the Applicant herself and Ms. Mburu as witnesses, finding the requested testimonies irrelevant.

## **Consideration**

11. The Tribunal is aware that the Applicant asked to testify: on “her interactions with the persons mentioned in the IGO [Inspector General’s Office] Report”, in order to demonstrate that the claims were unfounded, based on conjecture and testimony given is motivated by factors other than honesty; on how the investigations conducted in 2016 resulted in creating an expectation that those who report incidences would receive favourable relocation outcome; on her limited role in respect to the resettlement cases that she handled and which formed the basis of the corruption allegations against her; on her spirited fight against corruption (which included applying to join the Kenya Anti-Corruption Authority, interviewing for a UNHCR position for Investigation Associate, and attending anti-corruption workshops); and on the devastating effect which the termination has had on her.

12. The Tribunal already noted in the previous Order on case management that the Applicant, who complained that the accusations were generic and without specific details, already gave her recollection of the facts by 71 pages, plus interviews by IGO and many emails in records, and that she also fully lodged defensive comments in the application with its annexes and in her rejoinder.

13. In other terms, the Applicant has already provided her version of the events on several occasions, specifically taking a clear position on the investigation process, on her role in resettlement cases, and her authority to influence the cases of the refugees from whom she is accused of having solicited bribes.

14. The Tribunal further notes that the Respondent did not deny those facts, but only stressed their irrelevance with reference to the accusations.

15. The Tribunal is aware that the Applicant asked for Ms. Mburu’s testimony: on the Applicant’s role in peacebuilding and on her role with LWF limited to Sexual and gender-based violence (“SGBV”) and Child Protection; and on how LWF Peacebuilding was working and the referral mechanisms in place.

16. The Respondent objected to the request, saying that the Ms. Mburu's testimony would not assist the Tribunal in determining whether the relevant facts had been established.

17. The Tribunal notes that Ms. Mburu's testimony would be about a subject which is not connected to the facts the Applicant is accused of, and that is therefore not relevant to adjudicate the case

18. In sum, the Tribunal is of the view that the Applicant's requested testimony is superfluous and redundant, and that Ms. Mburu's requested testimony is outside the scope of the disputed matter.

19. In this situation the Tribunal, reviewed the parties' submissions and having in mind art. 19 of its Rules of Procedure, in the interests of a fair and expeditious disposal of the case, finds that a hearing on the merits would not add useful material to the case and that the matter can be decided based on the documents filed.

20. Therefore, the parties are directed to file their final submissions, addressing the points raised in each other's filings.

IT IS ORDERED THAT

21. By 5 p.m. (Nairobi time), Wednesday, 30 October 2024, the parties shall file their final submissions.

*(Signed)*

Judge Francesco Buffa

Dated this 24<sup>th</sup> day of September 2024

Entered in the Register on this 24<sup>th</sup> day of September 2024

*(Signed)*

Wanda L. Carter, Registrar, Nairobi