



THE UNITED NATIONS APPEALS

14. We therefore need to review carefully the evidence which has been put forward by Macharia in support of her allegation of bias against Judge Izuako, to determine whether there is or is not under the circumstances a real likelihood of bias.

15. The evidence proffered by Macharia relates to extracts of pages from Marshall's Facebook account. Though the annexes show that Judge Boolell and Adamou socialised with the said UNON officials on the social network, there is not a shred of evidence that the trial judge, Judge Izuako, was among that group. Had Judge Boolell handled the case personally, it would have been reasonable to presume that by the circumstances of his association with the Respondent or agents of the Respondent, there was a real likelihood of bias.

16. A charge of bias or likelihood of bias has to be established on the balance of probability by the person alleging same. Macharia has offered no evidence upon which we could infer that it was likely that Judge Izuako was prevailed upon.

17. As much as this Tribunal upholds the maxim that justice must not only be done but must manifestly be seen to be done, we are unable to rely on mere speculations to revise the reasoned decision of the UNDT Judge, which we affirmed in our earlier Judgment on the case. A conjecture may be plausible but is of no legal value, for its essence is that it is a mere guess.

18. With respect to Adamou, there is also no evidence for us to draw the conclusion that she influenced the proceedings or the UNDT Judge in her decision.

19. The Appeals Tribunal has considered the grounds for revision and we note that Macharia does not offer any evidence in support of these bare assertions casting serious doubt on the integrity of both Judges Boolell and Izuako.

20. With regard to the information about the MEU, we readily dismiss Macharia's argument, which is evidently ill-founded and irrelevant.

21. From the foregoing, we dismiss this application for revision.

Judgment

22. The application for revision is dismissed.

Original and Authoritative Version: English

Dated this 8th day of July 2011 in Geneva, Switzerland.

(Signed)

Judge Adinyira, Presiding

(Signed)

Judge Garewal

(Signed)

Judge Faherty

Entered in the Register on this 29th day of August 2011 in New York, United States.

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