

**THE REPUBLIC OF UGANDA
PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS APPEALS
TRIBUNAL**

APPLICATION NO. 42 OF 2022

BETWEEN

**DYNACO LIMITED AND PEARL ENGINEERING COMPANY LIMITED JV
===== APPLICANT**

AND

UGANDA NATIONAL ROADS AUTHORITY =====RESPONDENT

**APPLICATION FOR ADMINISTRATIVE REVIEW OF THE DECISION OF THE
ACCOUNTING OFFICER IN RESPECT OF THE PROCUREMENT FOR THE
CONSTRUCTION OF LIONS SWAMP CROSSING ALONG MOROTO – NPAK
– ABIM – PADER ROAD UNDER DESIGN AND BUILD UNDER
PROCUREMENT REFERENCE NUMBER UNRA/WRKS/2021-2022/00006.**

**BEFORE: FRANCIS GIMARA S.C, CHAIRPERSON; NELSON NERIMA;
THOMAS BROOKES ISANGA; GEOFFREY NUWAGIRA KAKIRA; PAUL
KALUMBA; CHARITY KYARISIIMA, MEMBERS**

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. Uganda National Roads Authority (the Respondent) invited bids for the for the construction of Lions Swamp Crossing along Moroto – Napak – Abim – Pader road under design and build under procurement reference number UNRA/WRKS/2021-2022/00006.
2. The evaluation of the bid submitted in the impugned procurement process was conducted in two stages: evaluation of technical proposals, and thereafter evaluation of financial proposals.
3. On 13th July 2022, following the conclusion of the evaluation of the technical proposals, the Applicant was notified that its bid had passed the technical evaluation stage and was invited to attend the opening of the financial proposals.
4. On 10th August 2022 during the financial bid opening, there were only two bids that were opened – the Applicant’s bid at UGX. 29,847,323,604 and that of Excel Construction Ltd at UGX. 65,668,129,176.
5. On 11th October 2022, the Notice of Best Evaluated Bidder Notice was displayed, indicating the Applicant as the Best Evaluated Bidder. The Notice indicated that the Respondent intended to place a contract with the Applicant after 25th October 2022.
6. On 2nd November 2022, the Applicant requested the Respondent for a status update regarding the impugned procurement and an update on the status of the contract management.
7. The Applicant alleges received information from a whistle-blower that following the display of the Notice of Best Evaluated Bidder, there had been an administrative review complaint made to the Respondent and that on 28th October 2022, a decision had been issued by the Accounting Officer in accordance with **section 89(7) of the Public**

Procurement and Disposal of Public Assets Act, as amended. In that decision, the Accounting Officer stated that he had reviewed the complaint and found merit in some of the issues raised. It was decided that the Entity would review the procurement process.

8. On 7th November 2022, being adversely affected by the Accounting Officer's decision, the Applicant lodged this instant application with the Tribunal under section 91I (1) (b) and section 89(8) of the Public Procurement and Disposal of Public Assets Act, as amended.

B. APPLICATION TO THE TRIBUNAL

1. The Applicant averred that the Respondent's Accounting Officer erred in law when he considered the merits of the administrative review application by Excel Construction Limited that was filed outside the statutory timeframe.
2. The Applicant contended that the administrative review complaint by Excel Construction Ltd. in the impugned procurement was unlawful because it contained information which was procured illegally.
3. The Applicant argued that the administrative review decision of the Accounting Officer dated 28th October 2022 in the impugned procurement is arbitrary, groundless and invalid.
4. The Applicant averred that the administrative review decision of the Accounting Officer dated 28th October 2022 in the impugned procurement was never communicated to the Applicant by the Respondent in violation of the principles of natural justice.
5. The Applicant prayed that the Tribunal finds merit in this application and awards it costs for the application.

C. REPLY TO THE APPLICATION

1. The Respondent averred that the application submitted to the Accounting Officer by Excel Construction Co. Ltd was filed within the statutory timelines as it became aware of the Best Evaluated Bidder notice on 11th October 2022 and filed its application on 20th October 2022.
2. The Respondent averred that the application is brought prematurely by the Applicant since the Applicant has not suffered any injustice. The Respondent argued that the Applicant is still the Best Evaluated Bidder after the administrative review decision of the Respondent's Accounting Officer.
3. The Respondent contended that the Applicant had not adduced any evidence to support its allegation that the complaint by Excel Construction Co. Ltd contained information that had been illegally obtained and put the Applicant to strict proof to adduce the same.
4. The Respondent averred that there is no legal obligation for the decision of the Accounting Officer to be communicated to the Applicant since the Applicant was not a party to the Administrative review process between Excel Construction Co. Ltd. And the Respondent.
5. The Respondent prayed that the Tribunal finds that the application lacks merit and for it to be dismissed with costs.

D THE ORAL HEARING

The Tribunal held an oral hearing on **21st November 2022** via zoom software. The appearances were as follows:

1. Mr John Kallemera represented the Applicant. Mr. Jonathan Tugume, the Applicant's Managing Director was in attendance
2. The Respondent was represented by Mr. Pecos Mutatina, the Senior Legal Officer-Litigation and Ms. Joanita Muganga, the Legal Officer

Contracts and Claims

3. Excel Construction Limited was represented by Satvinder Singh Saini, a Director, Engineer Murali Krishna (Director Projects) and Limo Louis Ken the Project Manager.

E. SUBMISSIONS

During the oral hearing, the Applicant and Respondent adopted and reiterated their written submissions and also provided clarifications to the Tribunal as follows:

Applicant

1. The Applicant averred that the Respondent's Accounting Officer erred in law when he considered the merits of the administrative review application by Excel Construction Limited that was filed outside the statutory timeframe.
2. The Applicant contended that the administrative review complaint by Excel Construction Ltd. in the impugned procurement was unlawful because it contained information which was procured illegally.
3. The Applicant argued that the administrative review decision of the Accounting Officer dated 28th October 2022 in the impugned procurement is arbitrary, groundless and invalid.
4. The Applicant averred that the administrative review decision of the Accounting Officer dated 28th October 2022 in the impugned procurement was never communicated to the Applicant by the Respondent in violation of the principles of natural justice.
5. The Applicant prayed that the Tribunal finds merit in this application and awards it costs for the application.

Respondent

6. The Respondent averred that the application submitted to the Accounting Officer by Excel Construction Co. Ltd. was filed within the statutory timelines as it became aware of the Notice of Best Evaluated Bidder on 11th October 2022 and filed its application on 20th October 2022.
7. The Respondent averred that the application is brought prematurely by the Applicant since the Applicant has not suffered any injustice. The Respondent argued that the Applicant is still the Best Evaluated Bidder after the administrative review decision of the Respondent's Accounting Officer.
8. The Respondent contended that the Applicant had not adduced any evidence to support its allegation that the complaint by Excel Construction Co. Ltd contained information that had been illegally obtained and put the Applicant to strict proof to adduce the same.
9. The Respondent averred that there is no legal obligation for the decision of the Accounting Officer to be communicated to the Applicant since the Applicant was not a party to the Administrative review process between Excel Construction Co. Ltd. And the Respondent.
10. The Respondent prayed that the Tribunal finds that the application lacks merit and for it to be dismissed with costs.

F. RESOLUTION BY THE TRIBUNAL
Issues

We now revert to the substantive issues in this application:

- i. *Whether the Accounting Officer erred in law when he considered the merits of the administrative review application by Excel Construction Limited?*
- ii. *Whether the administrative review complaint by Excel Construction Limited is unlawful because it contains information which is illegally procured?*
- iii. *Whether the administrative review decision of the Accounting Officer dated 28th October 2022 was arbitrary, groundless and invalid?*
- iv. *Whether the administrative review decision of the Accounting Officer dated 28th October 2022 was in violation of the principles of natural justice?*
- v. *What remedies are available to the Parties?*

Resolution of Issues

Issue 1

Whether the Accounting Officer erred in law when he considered the merits of the administrative review application by Excel Construction Limited?

1. The Applicant's first contention is that the Respondent's Accounting Officer erred in law when he considered the merits of the administrative application by Excel Construction Limited arguing that it was filed out of time contrary to **section 89(3)(b) of the Public Procurement and Disposal of Public Assets Act, 2003 (as amended)**. The Applicant's averment is premised on the fact that the grounds of the application by Excel Construction Limited were based on the technical proposal of the Applicant's bid.
2. The Tribunal has taken note of the application of Excel Construction

Limited dated October 20, 2022. In paragraph 2 of the said application, it reads as follows:

“We wish to record our dissatisfaction with the procurement process following the display of the Best Evaluated Bidder dated 11th October 2022. Consequently, we are submitting our request for an Administrative Review in accordance with the Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2014.”

3. **Section 89 (3) of the PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003** as amended states that:

A complaint against a procuring and disposing entity shall-

- (a) *be in writing and shall be submitted to the Accounting Officer of the procuring and disposing entity on payment of the fees prescribed;*
- (b) *be made within ten working days after the date the bidder first becomes aware or ought to have become aware of the circumstances that give rise to the complaint.*

4. A bidder can apply for administrative review at any stage of the procurement process but in any case, within 10 working days from the date when the bidder first became aware of the circumstances giving rise to the complaint. See **VCON Construction Limited versus Uganda Development Bank Application 22 of 2021.**

5. In procurement practice, a bidder first becomes aware or is assumed to have become aware of the circumstances that give rise to a complaint in three (3) circumstances following the issuance of a notice of best evaluated bidder under **Regulation 4(1) of the Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2014** that is to say:

- (i) *from the date of delivery of a copy of the notice of best evaluated bidder to all bidders who participated in the bidding process, with proof of such delivery or;*
- (ii) *from the date of display of the said notice of best evaluated bidder on the notice board of the procuring and disposing entity or;*
- (iii) *from the date of publication of the notice of best evaluated bidder on the website of the Authority.*

6. Although an administrative review complaint can be raised during the bidding process before the award of contract depending on circumstances of each case, the Tribunal has not seen any evidence by the Applicant to persuade us that the administrative review application by Excel Construction Limited to the Respondent should have been filed upon completion of the technical evaluation after the Applicant got invitation to bid opening of financial proposals.
7. Excel Construction Limited therefore became aware of the circumstances that gave rise to its complaint on 11th October 2022 when the Best Evaluated Bidder (BEB) Notice was issued. Accordingly, the ten working days' time limit for lodging a complaint before the Respondent's Accounting Officer began to run from 12th October 2022 and was scheduled to end on 25th October 2022.
8. The Tribunal finds that the application filed by Excel Construction Limited dated 20th October 2022 was filed within the statutory time period stipulated under **section 89(3) (b) of the Public Procurement and Disposal of Public Assets Act, 2003 (as amended)**.
9. **The Tribunal resolves this issue in the negative.**

Issue 2

Whether the administrative review complaint by Excel Construction Limited is unlawful because it contains information which is illegally procured?

10. The Applicant averred that the administrative review complaint of Excel Construction Limited to the Respondent's Accounting Officer is unlawful because it contains information which was procured illegally in as far as it referred to information in the Applicant's technical bid and/or the evaluation report which was not disclosed to any of the bidders.
11. In general, there is no rule of law that evidence obtained illegally (or improperly) must, for the purpose of proving a civil claim, be excluded. The courts have made it clear that they are more concerned with establishing the truth rather than applying a

mechanistic rule. **Re B (Children) (Standard of Proof) [2008] UKHL 35; [2009] 1 AC 11.**

12. Under common law, the general rule is that all relevant evidence is admissible regardless of the fact that it was obtained illegally. In **Kuruma versus The Queen [1955] AC 157 at 203**, the Privy Council held that:
“The test to be applied in considering whether evidence is admissible is whether it is relevant to the matters in issue. If it is, it is admissible and the court is not concerned with how the evidence was obtained.”
13. In **Uganda versus Kisembo Stephen Criminal Session Case No. 203 of 2014**, Justice Stephen Mubiru guided that:
“The primary question for the court is not whether or not to give approval to the method whereby evidence was obtained. It is whether justice and fairness require that the evidence be admitted.”
14. The modern approach is that Judges (and, increasingly, Juries) can be trusted to evaluate evidence in a rational manner, and that the ability of tribunals to find the true facts will be hindered and not helped if they are prevented from taking relevant evidence into account by exclusionary rules. **Shagang Shipping Company Ltd (in liquidation) v HNA Group Company Ltd, [2020] UKSC 34**, Para 104 on page 30 (decision of 5 August 2020)
15. *Section 43(a) and (d) of the Public Procurement and Disposal of Public Assets Act, 2003 requires all public procurement and disposal to [shall] be conducted in accordance with the principles of transparency, accountability and fairness and confidentiality.*
16. The Tribunal’s reading of the complaint of Excel Construction Limited revealed that the information relied on was relevant to the case and therefore admissible for purposes of fairness and transparency in handling the procurement dispute raised.

17. Public Officers, employees or experts engaged to deliver specific services by a procuring and disposing entity are obliged to respect the confidentiality of information received in the course of business dealings and are prohibited from using such information for personal gain. See *Section 93 and para 3(1) of the Code of Ethical Conduct* specified in *Schedule 5 of the Public Procurement and Disposal of Public Assets Act, 2003*.
18. Further, information regarding any procurement or disposal process may only be released or disclosed to any person by a procuring and disposing entity upon specific request. The request to disclose may however be denied under the circumstances stated in *Section 47(2) (b)(i)-(iv) of the Public Procurement and Disposal of Public Assets Act 2003*.
19. In common law and broadly, the need to exempt confidentiality arises where the documents are necessary for fair disposal of a case. See ***John Forster Emmott v. Michael Wilson & Partners Limited [2008] EWCA Civ 184*** or where the information sought could only be obtained at the expense of confidentiality; See ***Dolling-Baker V. Merrett and Another [1990] 1 W.L.R. 1205***
20. Peculiar to this instant application is disclosure of information supplied in confidence by a bidder, the disclosure of which could reasonably be expected to put that affected bidder at a disadvantage in contractual commercial negotiations or to prejudice the bidder in commercial competition.
21. It is our understanding this impugned procurement initiated using open domestic bidding, envisaged competition amongst eligible firms. It therefore follows that the bids of numerous bidders are submitted to a procuring and disposing entity in confidence that its information shall only be used for purposes of evaluating the bids and shall not be disclosed to its competitors or 3rd parties without using the requisite procedure. This is because any wanton or unauthorised disclosure of information has the propensity of putting the affected bidder at a disadvantage in commercial competition or tendering process.
22. The Supreme Court of Kenya when invited to expunge certain documents in a presidential election petition. In its ruling, from which it is necessary to quote *in extenso*, the apex Court had this to say:

“Having found that there are procedures provided for under the law through which any person who seeks to access information should follow, the question that follows is; what happens where a person ‘unlawfully’ or ‘improperly’ obtains any information held by an entity” Can a court of law admit such evidence... We also recognize that information held by the State or State organs, unless for very exceptional circumstances, ought to be freely shared with the public. However, such information should flow from the custodian of such information to the recipients in a manner recognized under the law without undue restriction to access of any such information... Further, a duty has also been imposed upon the citizen(s) to follow the prescribed procedure whenever they require access to any such information. This duty cannot be abrogated or derogated from, as any such derogation would lead to a breach and/or violation of the fundamental principles of freedom of access to information provided under the Constitution and the constituting provisions of the law. It is a two way channel where the right has to be balanced with the obligation to follow due process...”

*“The Petitioners, using the above test, do not show how they were able to obtain the internal memos showing communication between employees of the 2nd Respondent. Further, it has been alleged that these memos have only been shown in part, and taken out of context to advance the Petitioners’ case against the 1st and 2nd Respondents, and to an extent, the 3rd Respondent. No serious answer has been given to that contention. The use of such information before the Court, accessed without following the requisite procedures, not only renders it inadmissible but also impacts on the probative value of such information. **EMPHASIS ADDED**”*

See **Njonjo Mue & Another vs. Chairperson of Independent Electoral and Boundaries Commission & 3 Others** [2017] eKLR and also **Okiya Omtatah Okoiti & 2 others v Attorney General & 4 others** [2020] eKLR

Also see a similar finding by the Uganda Court of Appeal in **Nsubuga and Another v Uganda (Criminal Appeal 223 of 2021) [2022] UGCA 253** (14 October 2022)

23. Although the Applicant claims that the substance of *Excel Construction Ltd’s* complaint to the Accounting Officer was based on information that

was supplied to the Respondent in confidence by the Applicant for competitive tendering process, we have not found any proof that Public Officers or employees of the Respondent disclosed the said information to *Excel Construction Ltd.*

24. Nonetheless, even if the information was unlawfully obtained, there is no law that would bar the Accounting Officer from relying on it in determining of any fact in issue in the complaint. This is because in the course of conducting investigations into a complaint filed by a bidder, an Accounting Officer is permitted to use information provided by other bidders or any other relevant information. See Reg 5(d) and (e) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2014.*
25. Having stated the position of the law regarding evidence obtained illegally or improperly, it still remains the duty of an Accounting Officer or quasi-judicial body exercising administrative review powers to exercise his or her discretion in deciding what to do with and/or how to treat the said evidence before him or her.
26. **The Tribunal resolves this issue in the negative.**

Issue 3

Whether the administrative review decision of the Accounting Officer dated 28th October 2022 was arbitrary, groundless and invalid?

27. **Section 89(7) of the PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003 (as amended)** states that an administrative review decision by the Accounting Officer shall indicate the reasons for the decision taken and the corrective measure to be taken, if any.
28. The Tribunal agrees with the Applicant's averments to the extent that the decision of the Accounting Officer contained in his letter dated 28th October 2022 does not indicate the reasons for his decision as required under the law. Paragraph 2 of the said letter only indicates that the complaint was reviewed and, "*found to have merit on some of the raised.*

The Entity will subsequently review the procurement process". The letter does not specify the issues which had merit, and why. In addition, the Accounting Officer was indecisive when he stated a corrective measure of "reviewing the procurement". Reviewing the procurement is the administrative review itself but it must include a definite corrective measure. A specific corrective measure must be stated in the decision. Promising a review is tantamount to an intention to conduct another administrative review.

29. Any person other than *Excel Construction Ltd*, reading the said Accounting Officer decision, would not be able to tell whether the Accounting Officer had misapplied or rightfully applied the law or the facts in reviewing the Complaint.
30. As such any person whose rights are adversely affected by a decision made by the Accounting Officer as in the instant case would be altogether deprived of knowing whether it may have an available appeal on the substance of the case. **Transparency should be the watchword.** See decision of the Tribunal in ***Coil Ltd Vs. National Housing and Construction Company Limited, Application No.06 of 2022*** while relying on the decision of the England and Wales Court of Appeal (Civil Division) in ***Flannery v Halifax Estate Agencies Limited [2000] 1 ALL ER 373*** and ***Mariana and others v BHP plc and BHP Ltd [2021] EWCA Civ 1156(July 27, 2021)***
31. In ***PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY versus Pawor Park Operators and Market Vendors SACCO HCCA 3 of 2016***, it was stated that:
"...It is imperative that the reasons for its decision, and the material that it considered in making it, should be squarely and unequivocally revealed at every level of the structures..."
32. The Supreme Court in ***Galleria in Africa Ltd versus Uganda Electricity Distribution Company Ltd (Civil Appeal-2017) [2018] UGSC 19*** held that:
".....there's no way the Act can regulate practices in respect of

public procurement and disposal of public assets unless if the provisions are adhered to strictly to the letter. The provisions cannot be directory merely. They are for all purposes and intents mandatory and noncompliance with them makes the proceedings fatal.”

33. In this regard therefore, and in accordance with **section 89(7) of the PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS Act, 2003** as amended, the Accounting Officer of the Respondent ought to have made and communicated a decision clearly stating the reasons for the decision.
34. The Tribunal finds that the Accounting Officer’s failure to provide reasons for his decision was erroneous in law.
35. **Issue no. 3 is resolved in the affirmative.**
Issue 4
Whether the administrative review decision of the Accounting Officer dated 28th October 2022 was in violation of the principles of natural justice?
36. The Applicant’s grievance stems from the fact that it is the Best Evaluated Bidder in the impugned procurement and avers that it should have been timely informed of the administrative review decision of the Accounting Officer as its interests would be adversely affected by the decision.
37. The Applicant being the Best Evaluated bidder, had sufficient and direct interest in the Complaint filed by *Excel Construction Ltd.* See ***Application No.21 of 2022 Tumwebaze Stephen Kiba vs Mbarara City and Others.***
38. Failure to avail a copy or take steps to bring a copy of the administrative review decision contained in a letter dated October 28, 2022 to the Applicant as the Best Evaluated Bidder and allowing the Applicant to make representations to accusations made against or specific to its bid

by *Excel Construction Ltd* was contrary to Section 45 of the Public Procurement and Disposal of Public Assets Act and Article 28 (1) of the Constitution of the Republic of Uganda. See **Tribunal Application No.8 of 2021 Elite vs Uganda Coffee Development Authority para 42-44 and Egis Road Operations SA v Public Procurement and Disposal of Public Assets Authority & Ors, Application No. 8 of 2020.**

39. In ***MBJ Technologies Limited versus PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS & others Misc. Cause 171 of 2021***, the High Court rightly held that a decision without regard to the principles of natural justice is void.
40. The Tribunal is further guided by the case of ***Simon Gakuo versus Kenyatta University & 2 others Misc. Civil Application 34 of 2009*** where it was held that:
“The audi alteram partem rule should not be interpreted to mean a full adversarial hearing or anything close to it as per the court room situations...Interpreting the demands of natural justice as requiring an adversarial hearing or anything similar is a serious misdirection in law. There are no rigid or universal rules as to what is needed in order to be procedurally fair. What is needed is what court considers sufficient in the context of each situation with its own unique facts with the needs of good administration in view.”
41. In ***Ojangole Patricia & 4 others versus Attorney General HCMC 303 of 2013***, court relied on the holding of the Court of Appeal of Kenya in ***Onyango Oloo versus Attorney General [1986 – 1989] EA 456*** that:
“A decision in breach of the rules of natural justice is not cured by holding that the decision would otherwise have been right since if the principle of natural justice is violated, it matters not the same decision would have been arrived at.”
42. In the case of ***De Souza v Tanga Town Council Civil Appeal No. 89 of 1960 (1961) EA 377***, the East African Court of Appeal held that:
“...if the principles of natural justice are violated in respect of any

decision, it is immaterial whether the same decision would have been arrived at in the absence of departure from the essential principles of natural justice. That decision must be declared no decision.

43. Any decision made or pronounced in relation to the impugned procurement process, that had the effect of altering the status quo stated in the Notice of Best Evaluated Bidder displayed on October 11, 2022 should have been brought to the attention of the Applicant as the Best Evaluated Bidder, in line with the basic principles of transparency, accountability and fairness, also natural justice and right to fair hearing.
44. An accounting Officer is required to investigate a complaint by considering inter alia, where appropriate, information provided by other bidders. See regulation 5 (d) of ***the Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2014***. A best evaluated bidder cannot get the opportunity to have its information considered by the Accounting Officer unless it is informed of the Complaint.
45. Considering the foregoing, the Tribunal holds that the Accounting Officer violated the principles of natural justice in handling the administrative review process without involving the Best Evaluated Bidder whose interests were adversely affected. Therefore, the Accounting Officer's decision dated 28th October 2022 is null and void.
46. **The Tribunal answers this issue in the affirmative.**
Issue 5
What remedies are available to the parties?
47. The decision of the Accounting Officer fell short of the threshold stated in the Public Procurement and Disposal of Public Assets Act 2003 and breached the *audi alteram partem* rule. The decision of the Accounting Officer cannot be allowed to stand.

48. The procurement file shall be remitted back to the entity so that the Accounting Officer may review the Complaint of *Excel Construction Ltd* in line with the basic principles of public procurement to wit transparency, accountability and fairness, and the law.

G. DECISION OF THE TRIBUNAL

1. The Application is partially allowed.
2. The decision of the Accounting Officer dated October 28, 2022 is set aside.
3. The Accounting Officer of the Respondent is directed to determine the Complaint of Excel Construction Ltd de novo in a manner consistent with the law and this decision.
4. The determination in (3) above must be made within ten days from the date hereof.
5. The Tribunal's suspension order dated November 7, 2022 is vacated.
6. Each party shall bear its own costs.

Dated at Kampala this **28th** day of **November 2022**.



**FRANCIS GIMARA SC
CHAIRPERSON**



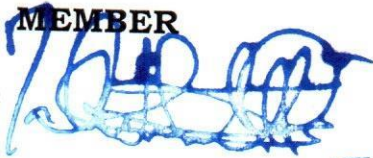
**NELSON NERIMA
MEMBER**



**THOMAS BROOKES ISANGA
MEMBER**



**GEOFFREY NUWAGIRA KAKIRA
MEMBER**



**PAUL KALUMBA
MEMBER**



**CHARITY KYARISIIMA
MEMBER**