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REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION - 2012

REPORT OF THE
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY ON THE CONSIDERATION OF THE CASE
OF ASSAULT OF A KENYAN EMPLOYEE BY THE MANAGING
DIRECTOR OF SHELTER AFRIQUE

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

JANUARY 2013

PREFACE

Mr. Speaker, Sir,

The Parliamentary Departmental Committee on Administration and National Security was constituted pursuant to the provisions of Standing Order No. 198 of the National Assembly and has executed its mandate in accordance with the provisions of the said Standing Order 198(3), which mandates the Committee to, inter alia;

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments; and,*
- (b) investigate and inquire into all matters relating to the assigned Ministries and departments as it may deem necessary, and as may be referred to it by the House...*

Mr. Speaker,

According to Schedule II of the Standing Orders, the Committee examines the following subjects:

- i) Public Administration
- ii) National security
- iii) Internal Security
- iv) Immigration
- v) Prisons Service
- vi) National Youth Service, and;
- vii) Natural disasters

The Committee oversees the following Ministries and Departments:

- (i) Office of the President (Cabinet Office & State House)
- (ii) Office of the Prime Minister
- (iii) Office of the Vice President and Ministry of Home Affairs
- (iv) Ministry of Provincial Administration & Internal Security
- (v) Ministry of State for Public Service
- (vi) Public Service Commission
- (vii) Ministry of State for Immigration and Registration of Persons

Mr. Speaker, Sir,

The following are the Members of the Committee:

The Hon. Fred Kapondi, MP (Chairman)
The Hon. Peter Kiilu, MP (Vice-Chairman)
The Hon. Cyprian Omollo, MP
The Hon. Danson Mungatana, MP
The Hon. Raphael Letimalo, MP
The Hon. Pollyins Ochieng', MP
The Hon. Mohamed Hussein Ali, MP
The Hon. Joseph Kiuna, MP
The Hon. Maison Leshoomo, MP
The Hon. Nkoidila ole Lankas, MP

Mr. Speaker,

The matter of assault of a Kenyan employee by the Managing Director of Shelter Afrique, came before the Committee through a letter by the Hon. S.K. Mwaita, MP, Baringo Central. The Hon. Member had earlier on raised a Parliamentary Question on Thursday, 27th September, 2012, seeking to know from the Minister of State for Provincial Administration and Internal Security, the following:

- (a) Under what circumstances was Mrs. Karen Njeri Kandie, the Finance Director at Shelter Afrique, assaulted by her boss, one Mr. Alassane Ba, and why has he not been arrested despite orders of his arrest issued by the Director of Public Prosecutions?
- (b) Could the Minister confirm that the police were denied entry at Shelter Afrique offices when they went to arrest him on 6th July, 2012?
- (c) What is the Minister doing to ensure that the officer is not victimized in her place of work?

From the answers given by the Minister and from subsequent supplementary questions by several Members in the House, the Hon. Mwaita felt that the Minister had not dealt with the matter sufficiently. This prompted the Member to petition the Parliamentary Departmental Committee on Administration and National Security to initiate investigations and establish the circumstances surrounding the attack of a Kenyan national by a foreigner.

The Committee, having considered the request by the Hon. Member, resolved to carry out an inquiry into the matter. The Committee in its sitting of 6th December, 2012, resolved to invite the Minister of State for Provincial Administration and National Security, the Minister for Foreign Affairs, the Permanent Secretary in the Ministry of Housing and the Director of Public Prosecutions, to a meeting in order for them to shed light over the matter of the alleged assault.

Mr. Speaker Sir,

During the meeting with the Minister of State for Provincial Administration and Internal Security, the Committee was informed that the Ministry had dealt with the matter before, but could not enforce the arrest of the Managing Director because the MD sought a court injunction stopping the Director of Public Prosecutions from having the warrant executed.

The Committee heard that the Shelter Afrique file was forwarded to the Criminal Investigations Department for directions and action. The Minister was still awaiting further communication from the CID and the courts so that he could carry out the arrest.

On the other hand, the Minister for Foreign Affairs informed the Committee that the Shelter Afrique Managing Director does not enjoy absolute immunity as per the agreement between him and the host country. However, the Board of Directors did not act in good faith by insulating Mr. Ba from arrest and prosecution, against the advice from the Ministry. Therefore, until the Board lifted this perceived immunity, the Ministry could not declare the culprit persona non grata hence the inability for the Ministry to act.

Mr. Speaker,

The Director of Public Prosecutions (DPP) told the Committee that on 20th July 2012, he issued a directive to the Police Commissioner to arrest and press charges against the Shelter Afrique Managing Director over the assault claim. However, Mr. Ba managed to obtain a constitutional reprieve on the basis of immunity. The court granted the MD a conservatory order in effect deterring the DPP from any further action. The DPP has not been able to make any progress due to the pending court case to determine whether Mr. Ba was exempt from arrest.

The Permanent Secretary, Ministry of Housing, who sits on the Board of Directors of Shelter Afrique, informed the Committee that when the matter of lifting the immunity on Mr. Ba came before the Board, the Managing Director referred to

the conservatory order and maintained that he enjoyed immunity. Further, the PS told the Committee that the Board had resolved to relieve the MD and Mrs. Kandie from employment. However, the fact that the MD would have his contract terminated does not shield him from criminal proceedings.

Mr. Speaker Sir,

The Committee also held a session with Mrs. Karen Kandie on 27th December, 2012; who gave a detailed account of the assault. She informed the Committee that on the material day she was attacked by the MD, he had called her to his office. When she differed with his opinion, he assaulted her, leaving her with serious injuries on her hands. She reported the matter to her seniors, and sought treatment from the hospital. She also reported the matter to the police.

She narrated how she has relentlessly sought justice from the courts, the Government and even Parliament, which has not been forthcoming. She gave an account of how frustrating the path of seeking justice has been. She believed that the MD, who still sits in the Board of Directors of Shelter Afrique, has been using his influential contacts to forestall justice. She also informed the Committee that the Managing Director has threatened her on several occasions with dire consequences if she did not withdraw her criminal suit against him.

She further informed the Committee that it was incumbent upon the Government to protect its citizens from acts of aggression especially from foreigners as was enshrined in the Constitution.

Mr. Speaker,

After listening to the representations from the Ministers, the PS, Housing and the DPP, and after deliberating on the case of assault on a Kenyan by a foreign employee, the Committee was convinced that Mr. Alassane Ba, the Managing Director of Shelter Afrique, should take responsibility for his actions.

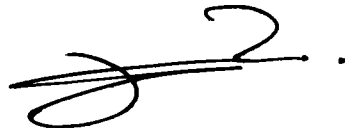
The Committee therefore recommends that the Government, through the Ministry of Housing, lifts the waiver on Mr. Ba and forthwith declare him persona non grata and have him repatriated to his country of origin immediately.

Shelter Afrique reinstates Mrs. Karen Kandie to her former position, withdraw her termination letter of 28th November, 2012 and compensates her appropriately for the wrongful dismissal.

The Committee takes this opportunity to thank the National Assembly for the logistical support which enabled it to compile this report with ease. The Committee is also grateful to the Ministry of State for Provincial Administration and Internal Security, the Ministry of Foreign Affairs, the PS Ministry of Housing and the DPP for providing the Committee with information that shed light on certain issues raised by the Committee Members.

Mr. Speaker, Sir,

On behalf of the Committee, and pursuant to Standing Order 181(3), it is my pleasant duty to lay in the House the Report of the Departmental Committee on Administration and National Security on its inquiry into the assault of a Kenyan employee by the Managing Director of Shelter Afrique, for debate and adoption.



Signed...Hon. Fred Kapondi, MP..... Date...8/01/2013.....

Chairman, Departmental Committee on Administration and National Security

1.0 INTRODUCTION

The matter of assault of a Kenya employee by the Managing Director of Shelter Afrique came to the public limelight after widespread coverage of the case in the Kenyan mainstream media, in June, 2012.

The victim of the assault, Mrs. Karen Kandie, the Finance Director at Shelter Afrique, moved to court in order to seek justice. However, the culprit, Mr. Alassane Ba, also sought and received a court injunction restraining the police from any arrests on the basis that he was covered by an agreement with the host country that granted him immunity.

In response to the claims of assault, the Shelter Afrique Board engaged Kroll Associates, an investigation agency in the United Kingdom, to carry out an inquiry to establish the facts behind the claims of assault. The report of the agency confirmed indeed the victim was assaulted and that the Board was partisan and had not dealt with the matter professionally, due to the influential position of the suspect.

The victim sought legal redress from the Industrial Court when it appeared that there was apparent interference with the judicial system where she had initially filed her case. However, the Industrial Court in its ruling of 22nd November 2012 upheld Mr. Ba's objection that he could not be tried because he enjoyed immunity under the host country agreement.

The Minister of State for Provincial Administration and Internal Security claims that he is unable to arrest Mr. Alassane Ba because of a conservatory order issued by the court that stopped the DPP from effecting a warrant of arrest.

The Minister for Foreign Affairs likewise claims that his hands are tied in that the Board of Directors has failed to waive the immunity cover on Mr. Ba thus rendering it impossible to declare him *persona non grata*. The Government should prevail over the Ministry of Housing to waive the immunity, which has been the stumbling block in the attempts to take action against Mr. Ba, who only enjoys functional immunity.

However, the criminal charges against Mr. Alassane Ba are still pending in the High Court awaiting determination as soon as investigations are over.

The Parliamentary Committee on Administration and National Security acted after the Hon. Sammy Mwaita, MP, Baringo Central, wrote to the Chairman to take up

the matter because the Minister of State for Provincial Administration and Internal Security had failed to answer his Parliamentary Question satisfactorily.

2.0 COMMITTEE INVESTIGATIONS

The Committee embarked on investigations into the case after receiving a letter by the Hon. Sammy Mwaita, MP, on 18th October, 2012. In a Sitting of the Committee held on Thursday 6th December, 2012, it was resolved that the Minister of State for Provincial Administration and Internal Security, and his counterpart in the Ministry of Foreign Affairs, should appear before the Committee to shed light on certain aspects of the case that were not clear.

The Committee was concerned that the MD of Shelter Afrique had not been arrested even after the Director of Public Prosecutions had issued an arrest warrant. The Committee wished to ascertain why the MD was claiming diplomatic immunity yet the agreement signed with the host country did not give him absolute immunity and did not exclude him from prosecution on criminal deeds.

The Committee further sought to meet with the Permanent Secretary in the Ministry of Housing to explain the inability of the Board of Directors of Shelter Afrique to waive the immunity of the Managing Director. The PS represents the Government in the Board. The Committee also resolved to invite the Director of Public Prosecutions to give an insight why the culprit had not been arrested and charged despite him having issued a warrant of arrest.

3.0 MEETING WITH THE MINISTER OF STATE FOR PROVINCIAL ADMINISTRATION AND INTERNAL SECURITY

During a meeting with the Committee, the Minister informed the Members that:

As far as he was concerned, the MD of Shelter Afrique Mr. Alassane Ba, enjoyed diplomatic immunity as per the agreement with the host country. This fact made it impossible for the Minister to carry out arrests on the MD. The Minister was ready and willing to make arrests immediately it was established that the suspect was no longer covered by any diplomatic immunity.

It was incumbent upon his counterpart in the Ministry of Foreign Affairs to set the record straight on whether Mr. Ba enjoyed any immunity or not. The Minister was incapable of making any arrests until this was established.

The warrant issued by the Director of Public Prosecutions could not be enforced by the police because the MD immediately sought a court injunction restraining the DPP from arresting him. On 24th July, 2012, the police forwarded the assault case file to the Criminal Investigations Department for investigations to be carried out.

The Criminal Investigations Department and the police sought waiver of the immunity from the Ministry of Foreign Affairs as well as the Board of Directors of Shelter Afrique but this did not materialize.

The Ministry is awaiting the outcome of a court case and would immediately arrest the suspect if such instructions were issued by the court, or if it is established that the suspect does not enjoy any immunity.

The Committee sought to know whether the Minister had liaised with his counterpart in the Ministry of Foreign Affairs to establish the position over the suspect's immunity. The Committee also wished to know whether indeed the Minister was indeed aware of the gravity of the matter, which indeed had attracted national interest.

The Minister stated that he was awaiting communication from the Minister of Foreign Affairs. Once this communication was received, he would swing into action. He was however informed that there was a pending court case whose outcome would determine whether to arrest the suspect or not.

4.0 MEETING WITH THE MINISTER FOR FOREIGN AFFAIRS, THE PERMANENT SECRETARY, MINISTRY OF HOUSING, THE DIRECTOR, PUBLIC PROSECUTIONS AND THE DIRECTOR, CRIMINAL INVESTIGATIONS DEPARTMENT

The Minister informed the Committee that:

Shelter Afrique is covered under the Immunity and Privileges Act, but Mr. Alassane Ba does not enjoy absolute immunity. The MD enjoys functional immunity by virtue of being a staff of Shelter Afrique which is a UN agency.

The Board of Directors of Shelter Afrique had insulated Mr. Ba from having his immunity waived. Mr. Ba had moved to the Constitutional court and got a conservatory order that shielded him from arrests until the matter on his immunity was concluded and hence blocked any arrests.

The Ministry of Foreign Affairs could not declare Mr. Ba persona non grata since

the Board of Directors was reluctant to waive immunity against the suspect. Mr. Ba had initially refused to record any statement with the police, but later obliged.

The DPP confirmed that it was true that he issued a directive to the Police Commissioner to arrest the Shelter Afrique MD. The police were thus detailed to visit Shelter Afrique to investigate the claims. Ba accompanied the police to Capitol Hill to make a statement.

However, the suspect did not cooperate and no statement was recorded. A statement was later recorded after Ba's defence lawyer came to the police station. The fact that Mr. Ba presented himself to the courts in essence has an inherent implication that he had waived his immunity because he could not move to court and also hide behind diplomatic immunity.

When the DPP gave instructions that an arrest warrant be issued, Mr. Ba acted swiftly and obtained a conservatory order stopping any further arrests against him. The DPP filed a robust defence while the plaintiff at the same juncture filed a case with the Industrial court.

The DPP is awaiting the High court ruling on the case whose hearing has been set for January 15, 2013. The DPP was satisfied there was sufficient evidence to charge Mr. Ba with a criminal offence.

The Committee sought to know the following:

- i. Why the Ministry of Housing and the Board of Directors were reluctant to lift immunity on Mr. Ba considering Shelter Afrique was under the Ministry's docket.
- ii. What measures the Ministry of Foreign Affairs had taken to ensure that Mr. Alassane Ba does not leave the country.

The Permanent Secretary in the Ministry of Housing informed the committee that the Board in Shelter Afrique consists of 10 members and that Kenya has only one member in the Board while voting is individual and all the decisions are reached by the Board.

The Ministry of Foreign Affairs assured the Committee that Mr. Ba would not leave the country and that the Ministry is unable to declare Mr. Ba persona non grata because the Board had insulated him against any claims of wrong doing. The

Minister further informed the committee that this was a sad affair where we appeared to be captives of our own laws.

5.0 SUBMISSION BY MRS. KAREN KANDIE

5.1 Background

The Committee invited Mrs. Kandie who was the victim in this case and established the following:

Mrs. Karen Njeri Kandie joined Shelter Afrique as Director of Finance in 2009 from the Nairobi Stock Exchange (NSE) where she was Head of Finance. She is the first Kenyan to hold the Director's position in Shelter Afrique despite the fact that the organization has been operating in Kenya for the last 30 years.

Shelter Afrique is an Inter Government Agency where Kenya is the largest sovereign shareholder (13%) and operates from Nairobi. It has a staff force of 40 drawn from the various African countries and operates no other offices outside Kenya.

5.2 Details of the Assault

Mrs. Kandie informed the Committee that Alassane Ba, the MD Shelter Afrique assaulted her in the office on 28th June 2012, thereby causing her serious bodily harm. She further said that on that particular day, she had a scheduled meeting with the MD in his office at around 10am, and the agenda of the meeting was to review her department's annual performance.

At the meeting, she enumerated the Department's targets as set out earlier in the year, demonstrated areas of achievement and also areas where, out of her initiative, she had surpassed the targets. She raised concern with the MD that despite having attained all the targets, the rating did not reflect the actual performance. At this point, the MD responded that targets did not matter to him and had no bearing on his rating of her performance. He also indicated that his rating was also based on what he hears from other staff.

When she objected to her appraisal being based on mere allegations and hearsay instead of the preset targets, just like for other departments, Alassane Ba stood up and without any provocation, grabbed her and started twisting her hands shouting "you will see me today".

She struggled to free herself and pulling towards the door screaming "leave me alone, leave me alone". After a brief struggle, she managed to free one hand and

she pulled the door open. When the door opened, he released her other hand and she ran out of his office leaving her phone and other personal effects. At this point, she had a lot of pain on her wrists and elbows inflicted by Mr. Ba.

Immediately after the assault, she sought treatment at the Nairobi Hospital where she was diagnosed, underwent X-ray, was treated and given ten days sick off.

She reported the assault the same day, to the Chairman of the Board of Shelter Afrique who is based in Zambia and also to the PS Ministry of Housing, who represents the Kenya Government in the Board. She also reported the case to the police, where it was recorded under OB 24/28/2012, and she was subsequently examined by the police surgeon, Dr. Kamau and a P3 form duly completed.

The police attempted to arrest Mr. Ba twice but he claimed immunity against arrest and she therefore lodged her complaint with the Ministry of Foreign Affairs. On being asked whether there had been any conflict between her and Alassane Ba prior to the assault, she informed the committee that there was general hostility towards Kenyans in the organization and the assault could be as a result of the prevalent acrimony.

Mrs. Kandie also stated that on several occasions, the MD had put her under immense pressure to make some payments which were not covered by the organization's policy and applied her professionalism to decline. She instead advised him to seek prior Board's approval but instead of seeking the approval, he became hostile to her.

On learning that the matter had been reported to the authorities, Alassane Ba sent her on compulsory leave. No reason was given for such action and it was not guided by any staff rules. On several occasions she received phone calls and short messages (SMS) from Mr. Ba that unless she coerced the police to withdraw the charges, she would be sacked.

The DPP issued instructions for Alassane Ba to be arrested but he, with the assistance of Shelter Afrique, obtained a court injunction against arrest citing immunity granted under the host country agreement (Constitution Petition No. 312 of 2012). Mrs. Kandie applied to be enjoined in the case, having been the victim of the assault but Alassane Ba and Shelter Afrique opposed the enjoinder.

Immediately after the application, she started receiving threatening messages, telling her that she would be sacked if she did not withdraw the criminal case. A number of emissaries sent by Mr. Ba put her under a lot of pressure to withdraw

the criminal case. The Company secretary of Shelter Afrique even called her husband on 18th September 2012, and informed him to advise Karen to withdraw the case against Ba.

The criminal case where she had applied to be enjoined failed to proceed due to legal machinations that caused interferences and delays. On many instances, the case was either not listed when it was due or Mr. Ba's lawyers wrote to postpone it, citing that their client's absence on official duty out of the country (Letter of 15th August 2012 - Annex). Karen wrote to the Chief Registrar of the Judiciary on 21st September 2012 (Annex) citing these frustrations.

She consequently instituted Industrial court proceedings vide case No. 1296 of 2012 in order to seek protection of her constitutional right to fair labour practices and also prevent Shelter Afrique from carrying out the threat of sacking her which would amount to unfair labour practices and gross violation of her rights.

Alassane Ba and Shelter Afrique objected to the case citing immunity under the host country agreement from all legal processes.

5.3 The Industrial Court Ruling

The Industrial court on 22nd November 2012 upheld the objection and ruled that Alassane Ba and shelter Afrique had immunity from all legal processes and the court had no jurisdiction to hear Mrs. Kandie's case. Consequently her appeal for justice through the courts could not be heard. The lawyers of Alassane Ba and Shelter Afrique presented the ruling to the High Court seeking to use it on the criminal case. Subsequently, the case was also kept in abeyance.

Immediately after the ruling, Alassane Ba went ahead to issue a letter to Mrs. Kandie, giving her a one day notice, to terminate her employment contract. This was not only against the Shelter Afrique staff rules and prevailing practice but also against natural justice.

5.4 Staff Rules

Chapter 9 of the staff rules has clear provisions on separation none of which was applied by Shelter Afrique in terminating the employment of Mrs. Kandie.

Rule No.9.1.01 States that "A fixed term appointment shall normally expire on the date on which the staff member attains the age of retirement."

Rule no. 9.1.08 on separation states that “A staff member may be separated from service in any of the following ways:

- i) Expiry of his/her appointment (Rule 9.1.00/01 – upon retirement).
- ii) Agreement with Shelter Afrique (Rule 9.1.00- Mutually agreed separation).
- iii) Termination of appointment on disciplinary grounds (Rule 9.6 – 9.13).
- iv) Abandonment of post.
- v) Voluntary retirement.
- vi) Resignation.

Rule 9.16.01 provides for separation at the initiative of Shelter Afrique for the following reasons;

- a) Prolonged ill health as a result of which a staff member is incapacitated for service.
- b) State of which the Staff is a national ceases to be a member of Shelter Afrique.
- c) Abolition of post or reduction in number of specific posts.

None of these rules apply in the case of Mrs. Kandie, where the MD issued a letter to an employee he had assaulted thus punishing her for seeking protection from her Government.

Moreover, the prevailing practice in Shelter Afrique is that contracts of other staff have continued under Rule no 9.1.01. To purport to apply the rules in a different way as was the case of Mrs. Kandie would therefore be discriminatory and ill motivated.

The letter was issued to Mrs. Kandie on 28th November 2012 and back dated to take effect from 22nd November 2012, despite the fact that there was an existing court injunction at the time of issuing the letter. This action confirmed the threats Mrs. Kandie had been receiving immediately after the assault.

Alassane Ba and Shelter Afrique presented the same ruling to the High Court thereby stopping the criminal case from proceeding. As a consequence of this action, Mrs. Kandie has been blocked from accessing justice and her constitutional rights have been grossly violated by Mr. Ba.

5.5 Kroll Associates (UK) Report

The Shelter Afrique Board appointed Kroll Associates UK to investigate the Assault incident and the report which was submitted on 15th October 2012, confirmed that indeed the assault took place and pointed out that the Board had been slow

and biased in handling the matter. This was attributed to the MD's tacit control of the process.

The report pointed out that as per the staff rules, Alassane Ba should have been suspended immediately the assault took place. The report, titled Project Pendleton Internal Investigation, stated thus under item No 120:

"Despite being informed by Mrs. Kandie that she had been assaulted by the MD on 28th June 2012, no immediate action against the MD was taken. This is questionable; given that Staff Rule No. 11 allows for the following process to be initiated should a charge of misconduct be made against a staff member: ...Such a staff member may be suspended from duty, pending investigation, for a period which shall not exceed three months to permit for completion of disciplinary proceedings".

Item No. 122 of the report goes further to state that; *"It does not appear that, based on documents reviewed by Kroll and discussions with employees of Shelter Afrique, consideration was given to suspend Ba, pending disciplinary action, despite the serious allegations made against him. Not only would this perhaps have demonstrated to the appellant that the Board took her complaints seriously, but also have protected the Board from criticism which it would face later".*

The report further states, under item No. 124, that; *"Having not taken action against the MD following the allegations, the organization instead proceeded to place Mrs. Kandie on special leave, as already explored in this report. Having summarised the parameters governing disciplinary suspension within the Staff Rules, the act of placing her on special leave takes on an even deeper shade of unfairness and impartiality by the MD and did nothing to promote the idea that the Board was acting independently and objectively" (Annex Report).*

Item No. 125 of the same report states that; *"To some degree, it can be argued that this strategic error was made as a result of the Board having confused the action of protecting the reputation of the organization (Shelter Afrique) with protecting the agent of the organization (Ba)".*

In the final analysis, the consultants advised that Mrs. Karen Kandie should be reinstated to her position and Alassane Ba should either be asked to resign or his services terminated.

The Shelter Afrique Board disregarded the report and allowed Alassane Ba to violate Mrs. Kandie's constitutional rights while hiding under the Host Country Agreement including proceeding to issue her with a letter terminating her services.

This is a clear indication that the Board abdicated its responsibility of supervisory role and allowed Alassane Ba to operate with impunity.

5.6 Privileges under Host Country Agreement

It is noted that the Host Country Agreement which was signed between the Kenya Government and Shelter Afrique in 1984 does not exempt Shelter Afrique and its employees from the rule of law in Kenya; The following sections clarify the fact that the privileges and immunities are functional, relating to work only and not meant to shield individuals who have committed crimes, from the due process of the law;

1. Article III section 6 (b) states that; *"...except as otherwise provided for in this agreement and subsequent to any regulations under section 7, the laws of the republic of Kenya shall apply within the Headquarters seat"*.
2. Article III section 6 (c) states that; *"...the courts or other appropriate organs of the republic of Kenya shall have jurisdiction as provided in applicable law over acts and transaction taking place in the Headquarters seat"*.
3. Article III Section 8(b) states that; *"...Shelter Afrique shall prevent the Headquarters seat from being used as a refuge by persons who are avoiding arrest under any law of the republic of Kenya, who are required by the Government for extradition to another country or who are endeavouring to avoid service of the legal process"*.
4. Article X Section 20 states that; *"...the immunities and privileges accorded under the host country agreement are not for the benefit of individuals themselves"*.
5. Article XIV Section 28 (d) states that; *"...the privileges and immunities accorded by section 23 of Article XI, Section 25 of Article XII, and section 26 of Article XIII are granted in the interest of Shelter Afrique and not the personal interests of the individuals themselves"*.
6. Article VI Section 31 states that; *"...without prejudice to the privileges and immunities accorded by this agreement, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the Republic of Kenya"*.
7. Article VI section 32 (a) states that; *"...Shelter Afrique shall cooperate at all times with the appropriate authorities to facilitate the proper administration of justice, secure the observance of the Police regulations"*

and prevent abuse of the privileges, immunities and facilities mentioned in this agreement”.

8. Section 32 (b) of the same article states that; “...*the MD shall take every precaution to ensure that no abuse of a privilege or immunity shall occur”.*

It is clear that the spirit of the Host Country Agreement anticipated that the organization and its leadership would operate within the confines of the rule of law and legality in Kenya and observe fair labour practices and uphold justice and dignity of its employees as stipulated by the Kenyan Constitution.

Since the MD himself, Alassane Ba is the subject matter of this case, it was incumbent upon the Board of Shelter Afrique to ensure that the privileges and immunities extended by the host country were not abused by the person they had hired to uphold the same.

The reluctance and/or failure by the Board is deemed as endorsing the MD's actions, and by extension, breaching the host country agreement and violating the Kenya constitution.

It is apparent however that the Board having abdicated its responsibility, Alassane Ba is misusing the privileges granted by the Kenya Government under the Host Country Agreement. He is using the agreement to shield himself from the legal process, after committing a crime under the penal code, and he continues to violate a Kenyan's constitutional rights at will.

5.7 Waiver of Privileges and Immunity

The Ministry of Foreign Affairs requested the Board of Shelter Afrique to waive the immunity of the MD so that he could be subjected to the due process of the law but the Board did not heed the request.

Article 20 of the Host Country Agreement mandates and obligates the Government to waive the immunity when it becomes apparent that the same is being misused.

The said Article 20 thus states: “...*privileges and immunities are accorded not for personal benefits of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with Shelter Afrique. Consequently, a shareholder, if a Government or the Managing Director of Shelter Afrique in the case of other shareholders, not only has the right but is under a duty to waive the immunity of a representative in any case where in the opinion of the shareholder or the Managing Director as the case may be, the immunity*

would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded”.

The Government of the Republic of Kenya, being the largest shareholder and having a seat in the Board, should invoke Article 20 and waive the immunity of Mr. Ba. Being the MD, he is required to uphold and protect the agreement from being misused, but instead, he is the one misusing it. He is using the privileges to shield himself from the due process of the law after committing a crime and continues to violate a Kenyan's constitutional rights.

The Government should therefore either waive the immunity at the first instance and subject him to the due process of the law, or declare the individual, Alassane Ba, persona non grata and have him leave the country with immediate effect.

5.8 The Constitution

The Constitution of Kenya which was promulgated in 2010 safeguards the fundamental rights, dignity and security of every Kenyan and it is incumbent upon every organization in the country to uphold and operate within the spirit and letter of the constitution.

Article 2(1) of the Constitution declares the Constitution the supreme law of the Republic and Article 2(4) directs that any law that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid. Consequently, Alassane Ba and Shelter Afrique cannot hide behind the Host Country Agreement and expect to evade due process of the law.

Article 27 of the Constitution guarantees equal benefit and protection of the law and the right to non-discrimination. The Board of shelter Afrique acted discriminately, even after their own internal investigation revealed that Alassane Ba was on the wrong. The Board went ahead to allow him to suspend the victim of his aggression and thereafter issue a letter terminating her contract.

Article 41 of the Constitution entitles every Kenyan to fair labour practices. Alassane Ba, MD Shelter Afrique has violated Mrs. Kandie's rights, since he has gone ahead to terminate her contract without any regard to the staff rules and after assaulting her.

By taking arbitrary action of terminating the contract without any reason whatsoever, Alassane Ba and Shelter Afrique violated Article 47 of the Constitution which guarantees fair administrative action.

Despite external investigations commissioned by the Shelter Afrique Board finding that the Managing Director was on the wrong, the Board ignored the findings of the Kroll and Associates report and allowed its Managing Director, to proceed to violate her constitutional rights and harass her.

Mrs. Kandie's right to fair hearing as guaranteed by article 50 of the Constitution has been violated by Shelter Afrique, by using the privileges and immunities under the Host Country Agreement.

It is evident that Alassane Ba is using his executive authority and powers to intimidate and harass a Kenyan and is hiding behind the privileges and immunities extended by the Government of the Republic of Kenya. This is not only an abuse to the legal system but also an affront to the spirit and letter of the Constitution and indeed the Country's judicial processes.

He is using the privileges and immunities granted under the Host Country Agreement for personal benefits and has abused the hospitality extended to him by the Government on behalf of the people of Kenya.

6.0 COMMITTEES FINDINGS, OBSERVATIONS AND CONCLUSIONS

The committee made the following findings:

- i) The Host Country Agreement provides that the functional immunity granted is a privilege and those accorded this privilege should uphold and respect the laws and regulations of Kenya. Therefore, the privileges do not grant immunity against criminal liability.
- ii) Although the Host Country Agreement makes it clear that the immunity is not for personal benefit but for the functions of the institution, Alassane Ba has abused this privilege to evade due process of the law and impede justice.
- iii) The Board and the MD of Shelter Afrique acted in breach of Mrs. Kandie's fundamental rights, as provided for under Chapter 4 of the Constitution.
- iv) The Board acted unfairly and discriminated against Mrs. Kandie by protecting Alassane Ba, even when its own consultants, Kroll Associates, UK, examined and reported that he was wrong.

- v) The Board of Shelter Afrique abdicated its responsibility of providing supervisory oversight and instead allowed the MD to operate with Impunity.
- vi) The MD's action of sending Mrs. Kandie on suspension and later terminating her contract without due regard to the Staff Rules was not only un-procedural but also against rules of natural justice.

- vii) The action to terminate her contract is a confirmation of the threats she had received earlier to the effect that if she did not withdraw the criminal charges, her contract would be terminated.

- viii) Although Kenya is the largest sovereign shareholder and is the only country which has granted privileges and immunities under the Host Country Agreement, it appears to have feeble and ineffective authority in the Board.

- ix) Administratively, it is apparent that all is not well at Shelter Afrique and this is demonstrated by the fact that the Ministry of Housing which supervises the organization had pointed out this issue through its letter of 2nd November 2011, ref: MH/8/12/(57) (Annex).

The Ministry's letter stated in part that; *"The Government of Kenya is concerned of the growing trend of inequity in treatment of staff and in discharge of Staff Rules, remuneration, and benefits. The Kenya Government further expects that international and national labour laws and practices would be respected at all times. The Government of Kenya would not wish to be associated with belligerent, oppressive and disrespectful treatment of workers and staff. Being party to approval of rules and procedures of Shelter Afrique, the Government expects compliance"*.

The issue of mistreatment of Kenyans was also highlighted by Kroll Associates.

7.0 RECOMMENDATIONS

Having held meetings and deliberations with the relevant Ministries and the assault victim, the Committee made the following recommendations:

1. **THAT; the Ministry of Housing and the Board of Directors at Shelter Afrique lifts the perceived immunity on Mr. Alassane Ba, and have him tried in a court of law for the assault crime.**
2. **THAT; the Government, through the Ministry of Foreign Affairs, declares Mr. Alassane Ba persona non-grata in this country with immediate effect.**
3. **THAT; Shelter Afrique withdraws its letter of 28th November terminating the services of Mrs. Karen Kandie and that she be reinstated to her former position at Shelter Afrique without any further delay.**
4. **THAT; Shelter Afrique be compelled to compensate Mrs. Kandie appropriately for the wrongful dismissal, humiliation, mental anguish and psychological torture suffered under Mr. Ba.**
5. **THAT; the Government renegotiates the Host Country Agreement signed with Shelter Afrique and align it to recognize the supremacy of the Constitution of Kenya to ensure the fundamental Bill of Rights of Kenyans are safeguarded.**
6. **THAT; the Government, being the biggest shareholder should have a majority representation in the Board proportional to their stake.**

APPENDICES

MINUTES OF THE 61ST SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY, HELD ON TUESDAY, 18TH DECEMBER, 2012, IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 4.30 PM

PRESENT

The Hon. Fred Kapondi, MP (Chairman)
The Hon. Peter Kiilu, MP (Vice Chairman)
The Hon. Pollyins Ochieng, MP

ABSENT WITH APOLOGY

The Hon. Mohamed Hussein Ali, MP
The Hon. Danson Mungatana, MP
The Hon. Joseph Kiuna, MP
The Hon. Raphael Letimalo, MP
The Hon. Cyprian Omollo, MP
The Hon. Maison Leshoomo, MP

ABSENT

The Hon. Nkoidila Ole Lankas, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mr. Daniel Mutunga - Second Clerk Assistant
Mr. Abdullahi Aden - Third clerk Assistant

IN ATTENDANCE – MINISTRY OF FOREIGN AFFAIRS, PS HOUSING, DPP, CID DIRECTOR

The Hon. Prof. Sam Onger, EHG, MP - Minister
Mr. Thuita Mwangi, CBS - Permanent Secretary
Mr. Tirop Kosgey, CBS - Permanent Secretary
Mr. Keriako Tobiko, CBS - DPP
Mr. Gedion Kimilu - CID

MIN.NO. 208/2012 - PRELIMINARIES

The Chairman called the meeting to order at 4.30 pm. Prayers were said. He welcomed the Minister and his team to the meeting and informed him that the matter before the Committee was through a letter by the Hon. Sammy Mwaita who had sought the intervention of the Committee when his Parliamentary Question was not adequately answered by the Minister of State for Provincial Administration. The Chairman further informed the Minister that there were certain issues that the Committee needed to understand, such as whether the MD of Shelter Afrique enjoyed any diplomatic immunity, if there was a warrant of arrest issued against him, and what

action the Ministry was contemplating to resolve the matter once and for all.

MIN. NO.209/2012 – SUBMISSION BY THE MINISTER FOR FOREIGN AFFAIRS, THE DPP AND THE PS, MINISTRY OF HOUSING

The Minister informed the Committee that;

Shelter Afrique is covered under the Immunity and Privileges Act but Mr. Alassane Ba does not enjoy absolute immunity. The MD enjoys functional immunity by virtue of being a staff of Shelter Afrique which is a UN agency.

The Board of Directors Shelter Afrique had insulated Mr. Ba from having his immunity waived. Mr. Ba had moved to the constitutional court and got a conservatory order until the matter on his immunity was concluded and hence blocked any arrests.

The Ministry of Foreign Affairs could not declare Mr. Ba persona non grata since the Board of Directors was reluctant to waive immunity against the suspect.

Mr. Ba had initially refused to record any statement with the police, but later obliged. When Mr. Ba presented himself to the courts, he had in effect waived his immunity.

The DPP confirmed that he issued a directive to the Police Commissioner to arrest the Shelter Afrique MD. The police were thus detailed to visit Shelter Afrique to investigate the claims. Ba accompanied the police to Capitol Hill Police Station to make a statement. However, the suspect did not cooperate and no statement was recorded. A statement was later recorded after Ba's defence lawyer came on the scene.

When the DPP issued a warrant of arrest, Mr. Ba obtained a conservatory order stopping any further arrests against him. The DPP filed a robust defence. However, the plaintiff at the same time filed a case with the Industrial court.

The DPP is awaiting the High court ruling on the case whose hearing has been set for January 15th 2013. The DPP was satisfied there was sufficient evidence to charge Mr. Ba with a criminal offence.

The Committee sought to know why the Ministry of Housing and the Board of Directors was reluctant to lift immunity on Mr. Ba considering Shelter Afrique was under the Ministry's docket. The Members wished also to know what measures the Ministry of Foreign Affairs had taken to ensure that Mr. Alassane Ba does not leave the country.

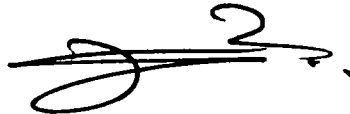
The Permanent Secretary in the Ministry of Housing informed the committee that the Board in

Shelter Afrique consists of 10 members and that Kenya has only one member in the Board while voting is individual and all the decisions are reached by the Board.

The Ministry of Foreign Affairs assured the Committee that Mr. Ba would not leave the country. The Ministry was unable to proceed with declaring Ba persona non grata due to the conservatory order granted to him. The Minister further informed the committee that the country was indeed captive of its own laws.

MIN. NO.210/2012 - A.O.B/ADJOURNMENT

There being no other business for discussion, the Chairman adjourned the meeting at forty five minutes past five o'clock.



Signed: Chairman.....Hon. Fred Kapondi, MP.....Date.....18/12/2012

MINUTES OF THE 65TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY, HELD ON THURSDAY 27TH DECEMBER, 2012, IN THE COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, AT 4.30 PM

PRESENT

The Hon. Fred Kapondi, MP (Chairman)
The Hon. Joseph Kiuna, MP
The Hon. Mohamed Hussein Ali, MP

ABSENT WITH APOLOGY

The Hon. Peter Kiilu, MP (Vice Chairman)
The Hon. Danson Mungatana, MP
The Hon. Raphael Letimalo, MP
The Hon. Pollyins Ochieng, MP
The Hon. Cyprian Omollo, MP
The Hon. Maison Leshoomo, MP

ABSENT

The Hon. Nkoidila Ole Lankas, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mr. Daniel Mutunga - Second Clerk Assistant
Mr. Abdullahi Aden - Third clerk Assistant

MIN.NO. 220/2012 – PRELIMINARIES

The Chairman called the meeting to order at 4.30 pm. Prayers were said. He welcomed Mrs. Karen Kandie to the meeting and informed her that the Committee had considered the request by the Hon. Sammy Mwaita who had sought the intervention of the Committee when his Parliamentary Question was not adequately answered by the Minister of State for Provincial Administration. The Chairman further informed the Minister that there were certain issues that the Committee needed to understand, such as whether the MD of Shelter Afrique enjoyed any diplomatic immunity, if there was a warrant of arrest issued against him, and what action the Ministry was contemplating to resolve the matter once and for all.

MIN. NO.221/2012 – SUBMISSIONS BY MRS. KAREN KANDIE: WITNESS

During a meeting with the Committee, Mrs. Kandie informed the Members that;

She joined Shelter Afrique as Director of Finance in 2009 from the Nairobi Stock Exchange (NSE) where she was Head of Finance. She is the first Kenyan to hold the Director's position in Shelter Afrique despite the fact that the organization has been operating in Kenya for the last 30 years.

She said that on the material day she was attacked by the MD, he had called her to his office. When she differed with his opinion, he assaulted her, leaving her with serious injuries on her hands. She reported the matter to her seniors, and sought treatment from the hospital. She also reported the matter to the police.

She narrated how she has relentlessly sought justice from the courts, the Government and even Parliament, which has not been forthcoming. She gave an account of how frustrating the path of seeking justice has been.

On being asked whether there had been any conflict between her and Alassane Ba prior to the assault, she informed the committee that there was a general hostility towards Kenyans in the organization and the assault could be as a result of this acrimony.

The Committee wished to know whether Mr. Ba was controlling and exerting pressure on the Board.

She said that she believed that the MD, who still sits in the Board of Directors of Shelter Afrique, has been using his influential contacts to forestall justice. She has also been threatened on several occasions with dire consequences if she did not withdraw her criminal suit against Mr. Alassane Ba.

She said that it was incumbent upon the Government to protect its citizens from acts of aggression especially from foreigners. These rights were enshrined in the Constitution and they ought to be guarded jealously.

MIN. NO.222/2012 - A.O.B/ADJOURNMENT

There being no other business for discussion, the Chairman adjourned the meeting at twenty five minutes past six o'clock.



Signed: Chairman.....Hon. Fred Kapondi, MP.....Date.....27/12/2012

MINUTES OF THE 68TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY, HELD ON THURSDAY 3RD JANUARY 2013, IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM

PRESENT

The Hon. Fred Kapondi, MP (Chairman)
The Hon. Peter Kiilu, MP (Vice Chairman)
The Hon. Raphael Letimalo, MP
The Hon. Pollyins Ochieng, MP
The Hon. Maison Leshoomo, MP
The Hon. Joseph Kiuna, MP

ABSENT WITH APOLOGY

The Hon. Danson Mungatana, MP
The Hon. Cyprian Omollo, MP
The Hon. Mohamed Hussein Ali, MP

ABSENT

The Hon. Nkoidila Ole Lankas, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mr. Daniel Mutunga - Second Clerk Assistant
Mr. Abdullahi Aden - Third Clerk Assistant

MIN.NO. 228/2012 – PRELIMINARIES

The Chairman called the meeting to order at 10.00 am. Prayers were said. He welcomed the Members of the Committee to the meeting and informed them that the agenda of the meeting was to adopt the report of the Committee on the assault of a Kenyan by a foreigner. He further stated that the victim had suffered a lot in pursuit for justice, which was quite elusive. He believed that Parliament had a duty to hold the Executive into account over acts of commission or omission.

MIN. NO.229/2012 – ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE ASSAULT CASE OF KENYAN BY A FOREIGN NATIONAL

The Members present unanimously adopted the report. The adoption was proposed by the Hon. Pollyins Ochieng, MP, and seconded by the Hon. Raphael Letimalo, MP.

MIN. NO.230/2012 - A.O.B/ADJOURNMENT

There being no other business for discussion, the Chairman adjourned the meeting at eleven o'clock.



Signed: Chairman.....Hon. Fred Kapondi, MP.....Date.....4/01/2013

**SHELTER-AFRIQUE
SHARE CAPITAL SUBSCRIPTIONS
AS AT 31 DECEMBER 2011**

	COUNTRY / INSTITUTION	Paid up Capital at par value as at 01/01/2011 US\$	Receipts during the year US\$	Paid up Capital at par value as at 31/12/2011 US\$	Share premium as at 31/12/2011	% of Shares Alloted
1	Algeria	4,220,000	0	4,220,000	0	7.96%
2	Benin	306,000	0	306,000	0	0.58%
3	Botswana	839,000	0	839,000	0	1.58%
4	Burkina Faso	904,000	0	904,000	0	1.70%
5	Burundi	300,000	0	300,000	0	0.57%
6	Cameroon	2,392,000	0	2,392,000	0	4.51%
7	Cape Verde	16,000	0	16,000	0	0.03%
8	Central Afr. Rep	271,000	0	271,000	0	0.51%
9	Chad	163,000	151,000	314,000	106,606	0.59%
10	Congo	516,000	0	516,000	0	0.97%
11	Democratic Republic of Congo	600,000	0	600,000	0	1.13%
12	Djibouti	300,000	0	300,000	0	0.57%
13	Gabon	1,283,000	0	1,283,000	0	2.42%
14	Gambia	300,000	0	300,000	0	0.57%
15	Ghana	-	4,472,000	4,472,000	5,527,392	8.43%
16	Guinea	419,000	0	419,000	0	0.79%
17	Guinea Bissau	25,000	0	25,000	0	0.05%
18	Guinea Equatorial	301,000	0	301,000	0	0.57%
19	Kenya	6,267,000	54,000	6,321,000	18,630	11.92%
20	Lesotho	500,000	0	500,000	0	0.94%
21	Liberia	309,000	0	309,000	0	0.58%
22	Madagascar	322,000	0	322,000	0	0.61%
23	Malawi	517,000	0	517,000	0	0.98%
24	Mali	1,236,000	0	1,236,000	0	2.33%
25	Mauritania	53,000	291,000	344,000	205,446	0.65%
26	Mauritius	115,000	0	115,000	0	0.22%
27	Morocco	437,000	0	437,000	0	0.82%
28	Namibia	327,000	0	327,000	0	0.62%
29	Niger	310,000	0	310,000	0	0.58%
30	Nigeria	5,331,000	180,000	5,511,000	62,100	10.39%
31	Rwanda	304,000	0	304,000	0	0.57%
32	Sao Tome & Principe	16,000	0	16,000	0	0.03%
33	Senegal	1,407,000	0	1,407,000	0	2.65%
34	Seychelles	300,000	0	300,000	0	0.57%
35	Sierra Leone	74,000	0	74,000	0	0.14%
36	Somalia	10,000	0	10,000	0	0.02%
37	Swaziland	228,000	0	228,000	0	0.43%
38	Tanzania	317,000	0	317,000	0	0.60%
39	Togo	162,000	0	162,000	0	0.31%
40	Tunisia	300,000	0	300,000	0	0.57%
41	Uganda	526,000	0	526,000	0	0.99%
42	Zambia	2,054,000	0	2,054,000	0	3.87%
43	Zimbabwe	54,000	146,000	200,000	103,076	0.38%
		34,631,000	5,294,000.00	39,925,000.00	6,023,250.00	75.30%
	African Development bank	10,576,000	0	10,576,000	0	19.95%
	Africa Reinsurance Corp.	2,520,000	0	2,520,000	0	4.75%
	TOTAL	47,727,000.00	5,294,000.00	53,021,000.00	6,023,250.00	100.00%

Shares to be Subscribed

46,979,000.00

TOTAL ISSUED AND CALLED

100,000,000.00



MINISTRY OF HOUSING

Telephone: +254 - (0) 20 - 2718050
Fax: +254 - (0) 20 - 2734886

Office of Permanent Secretary
Ardhi House
1st Ngong Avenue
P.O. Box 30119 - 00100
Nairobi, Kenya

When replying please quote

CONFIDENTIAL

Ref. No. MH/8/12/(57)

Date 2nd November 2011

Alassane Ba
Managing Director
Shelter Afrique
P O Box 41479-00100
NAIROBI

Dear *Mr Ba,*

The Government of Kenya commits itself to support Shelter Afrique in discharge of its mandate and mission to mobilize capital to support housing development in Africa. Shelter Afrique operates in Kenya – Host Country: under the Shelter Afrique Act (Cap 493C, Laws of Kenya) supported by a Headquarters Agreement signed with the Company.

Together, these instruments give the desired force of corporate existence to Shelter Afrique as enunciated in the Convention on the Constituent Charter of Shelter Afrique of which Kenya is a signatory. As host, the Government of Kenya expects the management of Shelter Afrique to meet codes of business practice in general and specifically as pronounced in various instruments of the Company and anchored in the enabling laws.

As we seek to foster continued good relations and compliance with statutes and by-laws, we draw your attention to the following concerns for which we expect your response:

1. The Government of Kenya fears that Shelter Afrique may not be exercising due care and full disclosure in cases of staff in possession of multiple citizenship where such citizenships involve non-member countries – against whose immigration laws residence applications need to have been considered.

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2. Employment of general staff category must be on local terms. Are there cases where some general category staff have access to remunerations and privileges of professional category?
3. The Company is expected to employ staff with proficiency in any of the two Shelter Afrique languages – English and French. Are there instances where language has been used as an unfettered instrument of discrimination in recruitment, reward or punishment?
4. We envisage that recruitment of staff would always be done in an open, competitive manner that gives opportunity for the company to acquire the best skills available in the region depending on the level of such jobs and in compliance with the approved staff regulations.
5. The Government of Kenya is concerned of the growing trend of inequity in treatment of staff and in discharge of staff rules, remunerations and benefits. Kenya Government further expects that international and national labour, laws and practices would be respected at all times. The Government of Kenya would not wish to be associated with belligerent, oppressive and disrespectful treatment of workers and staff. Being party to approval of rules and procedures of shelter Afrique, the Government expects compliance.
6. The Government of Kenya expects that all foreign staff together with their dependants are on valid residence status and in full compliance with Kenya's immigration law.

We anticipate that your response to these issues and any others that may have been subject of investigation/verification by other agencies of Government. Through the Ministry of Housing and Ministry of Foreign Affairs, Kenya Government will continue to provide support and facilitation in the spirit anticipated in the enabling instruments. On its part, Shelter Afrique management is expected to exercise high integrity, diligence and value based corporate governance practices.

Yours

Sincerely



Tirop Kosgey, cbs
PERMANENT SECRETARY

Copy to **Thuita Mwangi, CBS**
Permanent Secretary
Ministry of Foreign Affairs
P.O. Box 30557

