

REPUBLIC OF KENYA
IN THE MATTER OF THE MEDIA COUNCIL ACT [2013]
AND
IN THE MATTER OF THE MEDIA COMPLAINTS COMMISSION
MEDIA COMPLAINTS COMMISSION CASE NO. 2 OF 2025

OL PEJETA CONSERVANCY LIMITED.....COMPLAINANT

VERSUS

LYNN NGUGI MEDIA NETWORK LIMITED.....1ST RESPONDENT
EDITOR, LYNN NGUGI MEDIA NETWORK LIMITED.....2ND RESPONDENT

RULING ON THE APPLICATION FOR WITNESS PROTECTION

1. The Media Complaints Commission is seized of an application made by the 1st and 2nd Respondents seeking witness protection measures for one **Mr. Stephen Njogu Karanja**, who is intended to testify before this Commission in these proceedings.
2. The Respondents have argued that Mr. Karanja has expressed serious apprehension about his safety and wellbeing arising from his participation as a witness in this matter and have consequently prayed for orders placing him under the Witness Protection Programme established under the **Witness Protection Act No. 16 of 2006** [Revised 2020] (hereinafter “the Act”).

A. ISSUE FOR DETERMINATION

3. The key issue for determination is whether this Commission, in the exercise of its mandate under the **Media Council Act, 2013**, can recommend or order that Mr. Karanja be admitted to the Witness Protection Programme under the Act.

B. ANALYSIS

4. The **Witness Protection Act** at **Section 3(1)** is explicit on the scope of its application. It states:

“This Act shall apply to—

(a) a witness in criminal proceedings; and

(b) a witness who is required to give evidence in a prosecution or inquiry held before a court, commission, or tribunal outside Kenya—

(i) for the purposes of any treaty or agreement to which Kenya is a party; or

(ii) in circumstances prescribed by Regulations made under this Act.”

5. This provision makes it unequivocally clear that the Witness Protection Act is limited to criminal proceedings and certain specific international legal obligations. The proceedings before the **Media Complaints Commission**, established under the **Media Council Act, 2013**, are civil and regulatory in nature, and do not amount to criminal proceedings as contemplated by the Act.

6. Further, **Section 2** of the Act defines a **witness** as follows:

“witness” means a person who has made a statement or has given or agreed to give evidence in relation to an offence or criminal proceedings in Kenya or outside Kenya, and requires protection on the basis of an existing threat or risk.”

7. The use of the phrase “in relation to an offence or criminal proceedings” expressly excludes individuals participating in civil proceedings, such as the instant case before the Media Complaints Commission.

8. Moreover, **Section 3B** of the Act provides for the **object and purpose of the Witness Protection Agency**, stating:

“The object and purpose of the Agency is to provide the framework and procedures for giving special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with prosecution and other law enforcement agencies.”

9. The Media Complaints Commission, being a quasi-judicial tribunal tasked with enforcing the Code of Conduct for the Practice of Journalism in Kenya, does not constitute a law enforcement agency nor is it a prosecutorial body. Consequently, the witnesses appearing before this Commission are not within the contemplation of the protection regime established under the Witness Protection Act.

C. COMMISSION’S POSITION ON PROTECTION OF PARTICIPANTS

10. That being said, the Commission recognizes the seriousness of the allegations and apprehensions raised by Mr. Stephen Njogu Karanja. While the Commission lacks jurisdiction to invoke the Witness Protection Act, it acknowledges its responsibility as a quasi-judicial body to protect the dignity, safety, and procedural rights of all participants before it.

11. The Commission is guided by the principles enunciated in Mumo Matemu vs Trusted Society of Human Rights Alliance & Others (2013) eKLR, where the Court underscored the importance of fair administrative action, including the need for tribunals and commissions to take reasonable steps to safeguard participants from intimidation or undue influence.

12. Consequently, while the Commission is constrained by statute from granting orders for witness protection under the Witness Protection Act, it shall, within its own procedures, take reasonable measures to ensure the comfort, safety, and dignity of Mr. Karanja and any other vulnerable witnesses, including but not limited to:

- i. **Allowing for in-camera hearings where necessary;**
- ii. **Redacting sensitive personal information in public rulings or documents;**
- iii. **Managing hearing schedules to avoid undue public exposure.**

D. CONCLUSION

13. In light of the foregoing, the application by the 1st and 2nd Respondents to place Mr. Stephen Njogu Karanja under the Witness Protection Programme established under the Witness Protection Act is **hereby dismissed** for lack of merit.

14. The Commission, however, reiterates its commitment to ensure the safety and well-being of all persons appearing before it in accordance with the principles of fairness, justice, and respect for human dignity.

Orders accordingly.

DATED and DELIVERED at NAIROBI this.....17th.....JULY.....2025

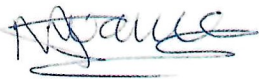


MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION

I Certify this to be a True copy
of the Original
Signed: *[Signature]* Date: *18 July 2025*
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