



## **Introduction**

1. The Applicant, a former Executive Director of the Water Supply and Sanitation Collaborative Council (“WSSCC”) at the D-2 level with the United Nations Office for Project Services (“UNOPS”) in Geneva, contests the Administration’s decision not to select him for the post of Executive Director, WSSCC.

2. In his reply, the Respondent contends that the application is not receivable since the Applicant failed to request management evaluation of the contested decision within the 60-day time limit under staff rule 11.2(c).

## **Facts and procedural history**

3. On 1 October 2012, the Applicant was seconded from UN-Habitat to UNOPS to assume the position of Executive Director, WSSCC.

4. On 3 October 2017, UNOPS informed the Applicant that a new job description for his position had been approved, which would come into effect on 1 January 2018. Therefore, the Applicant was

8. On 15 January 2018, the Applicant wrote an email to the Deputy Director, acknowledging a phone call with him the previous Friday. The Applicant wrote that he appreciated an offer to stay on the UNOPS payroll until he was reabsorbed by UN-Habitat.

9. On 1 March 2018, the selection of the successful candidate for the WSSCC Executive Director was announced.

10. On 20 March 2018, the Applicant requested management evaluation of his non-selection decision.

11. On 19 July 2018, the Applicant received the response to his request for management evaluation. UNOPS informed the Applicant that his request was not receivable as he had submitted it more than 60 days after he had been notified of the contested decision, and that the impugned decision was otherwise lawful.

12. On 17 October 2018, the Applicant filed the application referred to in para. 1 above.

13. On 19 November 2018, the Respondent filed his reply contending that the application is not receivable.

14. By Order No. 42 (GVA/2020) dated 6 April 2020, the Tribunal decided to reassign the case to the undersigned Judge.

15. On 15 June 2020, pursuant to Order No. 45 (GVA/2020), the Applicant filed a submission on the issue of receivability.

### **Consideration**

Under staff rule 11.2(c), the statutory time limit for requesting management evaluation is within 60 days from the notification of the contested decision. Article 8.1 of the Dispute Tribunal's Statute provides that the application is



the date and the content of the verbal notification were undisputed and that the contested decision was communicated with sufficient gravitas.

21. Having reviewed the evidence on file and the parties' arguments, the Tribunal finds that the application is not receivable as it is time-barred.

22. It results from the file that, on 12 January 2018, the Deputy Director of the UNOPS People and Change Group, in a telephone call, informed unequivocally the Applicant of the contested decision.

23. The Applicant claims that he was only officially made aware of his on

25. The current case is distinguishable from *Jean* and *Babiker*. In this case, it is not disputed that the Applicant and the Deputy Director had a phone conversation to discuss the Applicant's non-selection, and this is further supported by contemporaneous email communications: the Deputy Director specifically requested a phone call to discuss "the outcome of the selection process for the WSSCC [Executive Director]", and the Deputy Director informed his colleagues on the day of the phone conversation that he "informed [the Applicant] of the outcome of the process". Even if they discussed other matters during the phone conversation, the record makes it clear that the purpose and content of the communication was to notify the Applicant of the contested decision and there is no evidence to support the claim that this was only an informal communication to be followed by an official written notification.

26. The Applicant further claims that the current case should not be rejected as not receivable since the non-selection decision cannot be dissociated from the non-renewal decision which was adjudicated in the Dispute Tribunal's Judgment in *Williams* UNDT/2020/054. This claim is without merit. While the two decisions are inter-linked, they are nonetheless separate and distinct administrative decisions that were notified to the Applicant separately on different dates.

27. In light of the foregoing, the Tribunal finds that the Applicant's request for management evaluation of the contested decision, filed only on 20 March 2018, namely after the expiration of the 60-day time limit set out in staff rule 11.2(c), was late and

Entered in the Register on this 30<sup>th</sup> day of June 2020

*(Signed)*

René M. Vargas M., Registrar, Geneva