



**Before:** Judge Goolam Meeran

**Registry:** Geneva

**Registrar:** René M. Vargas M.

El-AWAR

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

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**Counsel for Applicant:**  
Mohamed Abdou, OSLA

**Counsel for Respondent:**  
Saidou N'dow, UN-Habitat

## **Introduction**

1. On 1 June 2017, the Applicant, a Senior Coordination Officer (P-5) of the United Nations Human Settlements Programme (“UN-Habitat”), filed an application challenging decisions which he claims had the effect of preventing him from performing the majority of his functions.

2. At the relevant time, the Applicant was serving as Senior Coordination Officer for the Global Water Operators Partnerships Alliance (“GWOPA”), an alliance of partners promoting the Water Operators Partnership established by UN-Habitat. He was heading the GWOPA Secretariat and was sitting *ex officio* on the GWOPA Steering Committee as representative of the GWOPA Secretariat. The Committee comprises representatives of water operators, operators from regions around the world and it meets annually to provide strategic direction for GWOPA Operations.

3. The contested decisions were notified to the Applicant in two memoranda sent on the same day.

4. The first was a memorandum dated 16 February 2017, from Mr. Rafael Tuts, Director, Programme Division, UN-Habitat, notifying the Applicant that UN-Habitat had decided to “conduct a management review of GWOPA”. His instruction to the Applicant was in the following terms:

You are instructed to desist from entering into any financial commitments for GWOPA without my explicit approval. Disbursements against current commitments and obligations must be cleared through the Director, Management and Operations. You may not initiate any new procurements, hire of consultants, or travel without my authorization, until further notice.

Until explicitly authorized by me, you are instructed not to engage with member states, UN agencies, the Steering Committee and the wider membership of GWOPA, media, other governments, or other partners on any topic, and if asked, simply inform inquiring parties that a management review has started with a view to strengthening GWOPA, and that you are awaiting further instructions from me or the Executive Director.

5. The second memorandum, sent on the same day, was from Dr. Joan Clos, then Under-Secretary-General and Executive Director, UN-Habitat. Dr Clos notified the Applicant that:

[T]he Delegation of Authority to sign UN-Habitat Agreements and Legal Instruments, the Delegation of Procurement Authority and the Delegation of Authority to Recruit Consultants and Individual Contractors granted to you through my memoranda dated 16 December 2014 are hereby temporarily withdrawn with immediate effect, pending further notice.

6. The reasons provided for the decisions were that between November and December 2016, the Applicant allegedly proposed to the members of the GWOPA Steering Committee to rename it as the “GWOPA Advisory Board” and to appoint Mr. Neil McLeod as its Interim Chair. This proposal would have the effect of replacing the Executive Director, UN-Habitat. It was put forward without consultation with those senior to the Applicant in the hierarchy and was considered to be contrary to the terms of the GWOPA Charter. Furthermore, it was alleged that at a session of the GWOPA Steering Committee on 1 and 2 February 2017, the Applicant reported on UN-Habitat’s alleged lack of support to GWOPA. The Applicant proposed to move the alliance from UN-Habitat to the United Nations Office for Project Services (“UNOPS”) without first seeking the approval of the Executive Director, UN-Habitat. He also allegedly discussed the same with the Regional Director for Europe and Central Asia, UNOPS, without any authorization.

### **Procedural background**

7. On 24 February 2017, the Applicant requested management evaluation of the decisions contained in the two memoranda referred to in paras. 4 and 5 above.

8. On 28 February 2017, the Tribunal issued Order No. 59 (GVA/2017) which suspended, pending management evaluation, the execution of the decision to withdraw the Applicant’s delegation of authority as well as the decision to withdraw the Applicant’s functions stipulated in the memorandum of 16 February 2017 from the Director, Programme Division, UN-Habitat.

9. On 20 April 2017, the MEU upheld the contested decisions. In the circumstances, by email of 21 April 2017, the Coordinator, Urban Basic Services Branch, UN-Habitat, instructed the Applicant to follow the two memoranda of 16 February 2016.

10. Following his request for management evaluation and his application for a suspension of action, the Applicant filed his application with the Tribunal on 1 June 2017. On 3 July 2017, the Respondent submitted his reply. The Applicant filed a rejoinder, in compliance with Order No. 134 (GVA/2018) of 5 August 2018.

11. At the first case management discussion held on 25 September 2018, the Applicant informed the Tribunal that he had been served with a notice that his fixed-term appointment (“FTA”) will not be renewed when it comes to an end on 30 September 2018. He also informed the Tribunal that he had filed a request for management evaluation challenging this decision, together with a request for suspension of action before the Dispute Tribunal in Nairobi, which were both under consideration at the time. The Applicant further indicated that he intended to file an application to the Dispute Tribunal in Nairobi, where he was then based, if he was not successful with his request for management evaluation. The Applicant asked that preparation of the present application continues but that its determination be deferred until the outcome of his request for management evaluation is known, indicating his belief that this case and the non-extension of his appointment are connected and that it would be a just and effective use of the Organization’s resources to combine the cases in the event that his request for a review is unsuccessful. Counsel for the Respondent submitted that there is no causal link between the cases and that the non-renewal decision was based on funding limitations and was a decision taken by the new Executive Director, UN-Habitat, who was not involved in the decisions being challenged in this case. He submitted that any new application arising from the non-renewal of the Applicant’s appointment should stand alone.

12. By Order No. 154 (GVA/2018) of 27 September 2018, the Tribunal decided to continue case management of this application and to review the matter, including

the possibility of joinder, if an application against the non-renewal were to be filed, at another case management discussion to be held on 30 October 2018.

13. On 2 and 12 October 2018, the parties submitted additional documents, as per Order No. 154.

14. On 30 October 2018, the Tribunal held a second case management discussion, to review progress. Since the Applicant's request for management evaluation of the decision not to renew his appointment was still under consideration, by Order No. 181 (GVA/2018) of 31 October 2018, the Tribunal deferred consideration of a possible joinder to a further case management discussion.

15. On 9 November 2018, the Applicant filed additional submissions and documents in response to documents submitted on 2 and 12 October 2018, as directed by Order No. 181. On 16 November 2018, the Respondent responded to the Applicant's additional submissions.

16. On 20 November 2018, the Tribunal held a third case management discussion, whereby the Applicant informed the Tribunal and the Respondent that he had filed an application against the non-renewal of his FTA before the Dispute Tribunal in Nairobi. He sought joinder of the two applications.

17. Having heard detailed arguments from the parties, the Tribunal decided that an order for combined proceedings was, in all the circumstances, not justified and any further delay in considering this case should be avoided. It would be for the Respondent to show that the decision not to renew the Applicant's FTA was solely because of lack of funds. Insofar as the Applicant may wish to impugn that decision, it would be open to him to satisfy the Tribunal that the decision was motivated by improper considerations.

18. At the case management discussion on 20 November 2018, the Tribunal informed the parties of its view that the file in this case deals comprehensively with the core issues relating to the instructions notified to the Applicant in the memoranda dated 16 February 2017. The Applicant's request for a hearing was refused, principally because of his failure to adequately identify how oral evidence would assist in clarifying the issues in contention over and above identification of

inaccuracies, the resolution of which would not disturb the essential factual findings and reasons for the impugned decisions.

### **Parties' submissions**

19. The Applicant's principal contentions are:

- a. The two memoranda stripped him of his delegation of authority and most of his functions. The failure to provide a justification for depriving him of his duties indicate that the decisions were improperly motivated and retaliatory;
- b. In particular, the reason of the management review appears to be a cover for retaliating against him for his expressed disagreement with actions of senior management;
- c. The timing of the memoranda is evidence that they were aimed at preventing the Applicant from conveying his dissenting views to stakeholders and staff members;
- d. The management's improper motive is evidenced by the unlawful and illegitimate request to access the Applicant's emails in February 2017;
- e. The Applicant's transfer to another post in Nairobi on 5 November 2017 without any job description or terms of reference and the subsequent abolition of the said post due to limited funding, and the non-renewal of his appointment, are further evidence of improper motives and retaliation;
- f. The Applicant denies having exceeded his authority. If he had done so this would be a performance issue that would need to be addressed under the proper framework and not through a deprivation of functions;
- g. The Applicant is *de facto* deprived of any meaningful work, as he cannot contact parties, hire staff, travel and spend money;

h. In any event, the contested measures were disproportionate to achieve the purpose they purportedly sought to achieve, that is to maintain the *status quo*;

i. Consequently, the Applicant asks the Tribunal to:

i. Find that the contested memoranda are retaliatory and unlawful;  
and

ii. Award him compensation in the amount of six months' net base salary.

20. The Respondent's principal contentions are:

a. The contested decisions are a proper exercise of managerial discretion given that the Applicant consistently failed to follow instructions from senior management, thereby breaching the confidence and trust of the Executive Director, UN-Habitat, and senior managers;

b. In particular, the Applicant instigated the change of the GWOPA Chair from the Executive Director, UN-Habitat, to Mr. Neil Macleod and advocated the move of GWOPA from UN-Habitat to UNOPS, without consulting senior management;

c. In these circumstances, it was necessary and reasonable that the Applicant's delegations of authority be "temporarily" withdrawn and that he be given specific instructions to consult and seek approval from his supervisors before engaging with member states, UN agencies, the Steering Committee and the wider membership of GWOPA, or making financial commitments to GWOPA "pending the outcome of the fact finding mission and the management review";

d. The memoranda in question are not retaliatory or punitive but rather constitute temporary preventive measures to avoid a potential relocation of GWOPA from UN-Habitat to UNOPS and other unauthorised commitments on behalf of UN-Habitat pending completion of the management review;

- e. The two contested memoranda do not affect the Applicant's key functions. The delegations of authority were granted to the Applicant by discretionary decisions of the Executive Director, UN-Habitat, and can accordingly be withdrawn. These functions are normally exercised by the Coordinator, Urban Basic Services Branch. The Applicant, in fact, never fully exercised his delegations of authority as his office does not have the necessary facilities to do so. The Applicant's job description clearly states that he should perform his duties under the guidance of the Executive Director, UN-Habitat, and the direct supervision of the Coordinator, Urban Basic Services Branch;
- f. The Applicant failed to provide any evidence of his alleged claim that he suffered harm; and
- g. The application should be dismissed in its entirety.

## **Consideration**

### *Scope and standard of review*

21. At the outset, the Tribunal notes that the Respondent presented the two memoranda that form the basis of the contested decisions as administrative measures taken in the interests of the Organization, to prevent possible damage caused by the Applicant who was acting without authorisation from his supervisors. The contested decisions were not issued as part of any disciplinary process or in the context of the performance management system.
22. The parties do not agree on the nature of the contested decisions. The Respondent claims that the withdrawal of the Applicant's delegations of authority were administrative measures taken in the proper exercise of managerial discretion. The Applicant, in turn, argues that the contested decisions effectively stripped him of his functions and were based on improper motives and were retaliatory.
23. The Tribunal must first examine the nature of the contested decisions and the effect they had on the Applicant's ability to perform his functions as Senior Coordination Officer for GWOPA.



24. If it is determined that the contested decisions were indeed administrative measures taken in the exercise of managerial discretion, the Tribunal shall examine if this discretion was exercised lawfully. The Appeals Tribunal held in *Sanwidi* 2010-UNAT-084 that:

There can be no exhaustive list of the applicable legal principles in administrative law, but unfairness, unreasonableness, illegality, irrationality, procedural irregularity, bias, capriciousness, arbitrariness and lack of proportionality are some of the grounds on which tribunals may for good reason interfere with the exercise of administrative discretion.

25. The Appeals Tribunal also held in *Islam* 2011-UNAT-115 that the reasons for an administrative decision must be justified by the facts.

26. In view of the foregoing, the Tribunal will examine:

- a. The nature of the contested decisions and whether the Applicant was subjected to a significant diminution of his core functions; and
- b. Whether the contested decisions constitute a lawful exercise of managerial discretion.

*What was the nature of the contested decisions? Was the Applicant subjected to a significant diminution of his core functions?*

27. The Applicant joined GWOPA in 2008, first as a Programme Manager. He was then promoted as a Senior Coordination Officer for GWOPA. Throughout his tenure, the Applicant acted as the Head of GWOPA Secretariat and sat as an *ex officio* member on the GWOPA Steering Committee.

28. According to his job description, the Applicant worked under the direct supervision of the Senior Adviser to the Executive Director, UN-Habitat, on Urban Basic Services, and the overall guidance of the Executive Director, UN-Habitat. The Applicant was responsible for managing the GWOPA Secretariat and supervise the Secretariat staff members; leading the development of the strategic direction of GWOPA and the development and implementation of the GWOPA Secretariat workplan; leading resource mobilization efforts and liaising with donors and other

development partners to maintain political and financial support to GWOPA Secretariat; representing UN-Habitat and GWOPA in international, regional and national fora and with national, regional and local governmental bodies; and contributing to the implementation of UN-Habitat work programme in Urban Basic Services.

29. From 22 March 2012, the Applicant worked under the direct supervision of Mr. Bert Diphoom, Senior Adviser to the Executive Director, UN-Habitat.

30. By memoranda dated 16 December 2014, the Executive Director, UN-Habitat, delegated authority to the Applicant to recruit consultants and individual contractors, to sign template agreements and legal instruments and to undertake procurement (“delegations of authority”).

31. On 22 May 2015, following Mr. Diphoom’s retirement, GWOPA was relocated in the Urban Basic Services Branch as part of Sub-programme 4 of the Strategic Plan 2014-2019 and the Applicant reported to the Sub-programme Coordinator, Mr. Andre Dzikus.

32. By the contested decisions, the delegations of authority mentioned in para. 30 were withdrawn for an indefinite period and the Applicant was also instructed not to engage with member states, UN agencies, the Steering Committee and the wider membership of GWOPA, media, other governments, or other partners on any topic without the prior approval of the Director, Programme Division.

33. Having reviewed the Applicant’s job description, the Tribunal finds that there is no direct reference to the Applicant having authority to sign template agreements and legal instruments or to undertake procurement. There is no explicit reference either to the Applicant performing specific functions in these areas of work. As to the authority of the Applicant to recruit consultants and individual contractors, the Applicant’s job description makes him responsible for (emphasis added) “recruiting the needed professional and support GWOPA Secretariat *staff*”. There is no reference to any recruitment of consultants and individual contractors, who, by definition, are not staff members and are thus recruited under a different legal and budgetary framework.

34. It also appears that the Applicant exercised his functions of Head of GWOPA Secretariat and Programme Manager since 2008 and that he received a delegation of authority only in December 2014, which suggests that such delegations of authority were not essential to the fulfillment of his functions. According to the documentary evidence, the Applicant was among a few staff members at the P-5 level in UN-Habitat to have been granted delegations of authority. The fact that delegations of authority were exceptional further shows that it was not deemed essential to the performance of functions at the P-5 level in UN-Habitat's institutional context.

35. Most importantly, the withdrawal of the Applicant's delegations of authority does not necessarily mean that he could no longer be involved in the performance of his core functions. However, the memoranda curtailed his powers to formally commit the Organization without approval of the Executive Director, UN-Habitat, who is the one vested with legal authority over these matters under the applicable legal framework.

36. However, the Tribunal finds that the instructions contained in the memorandum of the Director, Programme Division, not to engage with any stakeholders without his prior authorization is directly related to the Applicant's core functions. His job description is replete with responsibilities which explicitly require him to be in contact with donors and other development partners and to represent UN-Habitat and GWOPA in various international, regional and national fora, including liaising with government bodies, Spanish stakeholders, UN agencies and the GWOPA Steering Committee.

37. Although the job description specifies in the organizational setting and reporting lines that the Applicant shall act under the overall guidance of UN-Habitat Executive Director and the direct supervision of the Senior Adviser to UN-Habitat Executive Director, on Urban Basic Services, the description of this responsibilities suggests that he had a leadership role and a wide margin of discretion in contacting various stakeholders. It would appear that in practice the Applicant was allowed to operate relatively freely until February 2017. Therefore, the memorandum of the Director, Programme Division, which required that any contact with a stakeholder

be subject to prior approval, had the effect of significantly curtailing the Applicant's margin of manoeuvre and authority.

38. That said, it cannot reasonably be concluded that the Applicant was effectively deprived of a significant part of his functions. He could still perform them, but he was subject to a much tighter level of scrutiny from his supervisors. Accordingly, the Tribunal is of the view that the contested decisions are properly characterized as administrative measures taken in the exercise of managerial discretion.

*Did the contested decisions constitute a lawful exercise of managerial discretion?*

39. The evidence shows that the Applicant was involved in a number of significant actions concerning the structure and the future of GWOPA without consultation with his management.

40. UN-Habitat had reasonable grounds to believe that between November and December 2016, the Applicant proposed to the members of the Steering Committee that it be renamed as "GWOPA Advisory Board" and to appoint Mr. Neil McLeod as its Interim Chair, in the place of the Executive Director, UN-Habitat. He did not consult his line managers before putting forward this proposal and when they became aware of it they were very concerned.

41. By letter of 16 January 2017, the Mayor of Barcelona informed the Executive Director, UN-Habitat, of the desire of the Barcelona City Council for GWOPA Secretariat to remain in Barcelona.

42. The Respondent states that, at a session of the GWOPA Steering Committee on 1 and 2 February 2017, the Applicant reported on UN-Habitat's lack of support to GWOPA and proposed that the alliance be moved from UN-Habitat to UNOPS, without seeking the approval of the Executive Director, UN-Habitat. It is alleged that he also discussed the same with the Regional Director for Europe and Central Asia, UNOPS, without any authorization.

43. By letter of 2 February 2017, the GWOPA Steering Committee requested the Executive Director, UN-Habitat, to "consider positively" a transition of GWOPA

from UN-Habitat to UNOPS and added that the Committee had resolved to present a formal request to UNOPS to host GWOPA and directed its Secretariat to open discussions with the Government of Spain for the purpose of concluding a new hosting agreement.

44. On 14 February 2017, in reaction to the letters of 16 January and 2 February 2017, the Executive Director, UN-Habitat, decided to establish a fact-finding mission in order to support the management review of GWOPA. The Applicant was also instructed to report to UN-Habitat's headquarters in Nairobi from 13 through 15 February 2017 to discuss issues of concerns for management.

45. By letter of 15 February 2017, the Executive Director, UN-Habitat, responded to the GWOPA Steering Committee members, expressing "surprise" at the proposal and refuting any suggestion that there had been a change in UN-Habitat's priorities.

46. According to the Respondent, the Applicant was informed during his visit to Nairobi of the GWOPA Steering Committee's request to be hosted by UNOPS, the UN-Habitat's continued interest in GWOPA and the management review, amongst others. During this visit the impugned decisions were taken and conveyed to the Applicant.

47. The Tribunal requested production of the minutes of the senior management meeting(s) where the decisions were apparently taken. The Respondent was not able to produce any document or minute evidencing the decisions and the reasons for them. However, he produced a sworn statement signed by Mr. Andrew Cox, Director, Management and Operations Division, UN-Habitat, together with a joint statement signed by various managers which record their concerns about the manner in which the Applicant was carrying out his duties and particularly his failure to consult which gave them reason to believe that the interests of the Organization were at risk of being jeopardised.

48. Notwithstanding the production of these statements, the Tribunal is concerned that a public body, such as UN-Habitat, is unable to produce a contemporaneous note or other contemporaneous record or audit trail of such decisions.

49. The Applicant does not deny having taken the actions that led to the contested decisions. Without admitting them, the Applicant provided different and irreconcilable explanations as to the context in which they occurred. In his application filed on 1 June 2017, the Applicant did not refer to what he actually did or did not do but made several statements that showed that he was in disagreement with his hierarchy as to the future of GWOPA and a possible reassignment of funding from GWOPA to the UN-Habitat core budget that, in his view, could jeopardize the alliance. He based his application on an argument that the contested decisions were taken in retaliation for his expressing dissenting views. Later, the Applicant sought to argue that he was acting in consultation with his hierarchy or at the very least with their knowledge and that, in any event, he did not have any authority to make any decision that could harm UN-Habitat's interests.

50. The Tribunal finds that the documentary evidence and the Applicant's own submissions are sufficient to substantiate the management's belief that the Applicant had been involved in an initiative to move GWOPA from UN-Habitat to UNOPS, to replace the Executive Director, UN-Habitat, as chair of the GWOPA Steering Committee by Mr. Neil McLeod, and to rename the Committee as "GWOPA Advisory Board". These are decisions and or actions which his managers reasonably believed could have a serious impact on the future of GWOPA and UN-Habitat as a whole. The evidence further supports the management's assertion that the Applicant did not act with the consent of his hierarchy or even with their knowledge. Since the contested decisions did not involve the imposition of a disciplinary measure, the standard of "clear and convincing evidence" does not apply. The Tribunal considers that a reasonable belief based on a fair and reasonable examination of the evidence and taking into account the interests of the Organization, as determined by those with authority and responsibility for doing so, is sufficient to impose the administrative measures in the circumstances of this case.

51. The Applicant asserts that he was being retaliated against for his "dissenting views" on the future of GWOPA. The Applicant also stated in his application that from September 2016, he was instructed by his senior managers not to engage in discussions on the renewal of GWOPA Secretariat hosting agreement with the Spanish government. He also stated that he had been made aware of reallocation of

GWOPA funding to UN-Habitat's core budget and was concerned about GWOPA's future within UN-Habitat. Furthermore, he stated that during a Skype conversation with Mr. Cox in late December 2016, he was told that "GWOPA will go through a 'transition' to 'a new business model'".

52. On 12 January 2017, the Applicant wrote a memorandum to the Executive Director, UN-Habitat, expressing his concerns with the developments regarding the financial status of GWOPA, outlining the work of GWOPA and the adverse effect of a large budget cut and appealed to the Executive Director to reconsider his decision. He even said that "this drastic and abrupt decision [to reduce GWOPA's budget] could be interpreted as an intentional move by UN-Habitat to close down GWOPA".

53. There is nothing in the application nor in the documents suggesting that the initiatives to move GWOPA from UN-Habitat to UNOPS, to renew the host country agreement with the Spanish government, to change the name of the GWOPA Steering Committee or to replace the Executive Director, UN-Habitat, as the chair of the GWOPA Steering Committee was part of the ideas exchanged between the Applicant and his line managers. Instead, it is clear from the documents that the Applicant was specifically asked, from September 2016, to maintain the *status quo*.

54. As to the Applicant's argument that he had no authority to take any binding decision in respect of the above-mentioned matters, the Tribunal is of the view that this is not determinative of the issue in question. It is apparent that the Applicant, through his actions, sought to influence a number of crucial decisions that he perceived were in the best interests of GWOPA. The fact that he may not have the authority himself to take these decisions does not alter the fact that he attempted to give a new orientation to GWOPA against the instructions of his supervisors or, at the very least, without their knowledge.

55. In the view of his managers, the Applicant's actions had the potential of harming the interests of UN-Habitat. This conclusion does not appear unreasonable in the circumstances. As a staff member of UN-Habitat the Applicant's primary loyalty to UN-Habitat required him to act within the reasonable parameters as determined by those senior to him in the hierarchy. Although he may have faced a

conflict with his commitment to GWOPA and irrespective of whether his actions were taken in the best interests of GWOPA, he had to conform with the reasonable and lawful instructions of his management hierarchy.

56. The Tribunal finds that the administrative measures were rational and proportionate to address the concerns expressed by management. Faced with a situation where the Applicant was taking initiatives that were perceived to be against the interests of UN-Habitat without any consultation with his hierarchy, it was appropriate to curtail his authority and to subject him to more stringent control. Further, it has not been established that the measures were disproportionate to the objective they sought to achieve. All the measures were aimed at preventing the Applicant from taking any action that would have the effect of binding GWOPA or UN-Habitat, formally or informally. Whilst they may have had a significant impact on the Applicant's way of exercising his functions, they did not have a disproportionate impact on him as he could still continue to occupy his post and fulfil his responsibilities as defined in his job description, albeit under more scrutiny.

57. The Applicant also takes issue with the fact that although the measures were said to be of a temporary nature, they remained in force until he was reassigned to another position in Nairobi in November 2017 and thus turned out to be permanent. According to the Respondent and as suggested by the memorandum of the Director, Programme Division, of 16 February 2017, the contested decisions were to be effective pending the management review initiated by the Executive Director, UN-Habitat. There is no clear evidence as to when the management review was completed but it appears that the report was still under review when the Respondent submitted his reply, on 5 July 2017. The report was ultimately produced to the Tribunal on 2 October 2018, but it is not dated. There is no evidence that the contested decisions were revisited after the management review was completed.

58. That said, there is no evidence that the situation was resolved by the time that the Applicant was transferred to Nairobi and the evidence suggests that the management review was not concluded until mid-July, that is only a few months before the Applicant was transferred.



59. The Tribunal finds that the administrative measures which were imposed to limit the delegations and authority of the Applicant constitute a legitimate exercise of managerial discretion. Faced with a staff member who was taking initiatives which, in the view of management, was perceived to have the potential to harm UN-Habitat's interests, they were entitled to limit his authority and temporarily increase the level of supervision. It has not been demonstrated that the measures were based on ulterior motives or taken in retaliation against the Applicant for his admittedly divergent views on the future of GWOPA.

### **Judgment**

The application is dismissed.

*(Signed)*

Judge Goolam Meeran

Dated this 23<sup>rd</sup> day of November 2018

Entered in the Register on this 23<sup>rd</sup> day of November 2018

*(Signed)*

René M. Vargas M., Registrar, Geneva