



UNITED NATIONS DISPUTE TRIBUNAL

Case No.:	UNDT/NBI/2024/066
Judgment No.:	UNDT/2025/065
Date:	18 September 2025
Original:	English

Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda L. Carter

DIK

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Ludovica Moro

Counsel for Respondent:

Halil Goksan, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant, formerly Chief of Administration at the Economic and Social Commission for West Asia (“ESCWA”) filed an application contesting:

- a. The decision to place a reprimand letter in his official status file (“OSF”); and
- b. The omission to close a pending investigation against him (OIOS Case No. 0075/22).

Factual and procedural background

2. Prior to his separation from the Organization on 15 April 2023, the Applicant had various cases involving allegations against him, some concluded and others still under investigation. The cases not concluded when he separated were:

- a. Case No. 1- sexual harassment and other allegations of misconduct (OIOS Case No. 0469/22).
- b. Case No. 2- sexual harassment and other allegations of misconduct (OIOS Case No. 1190/21).
- c. Case No. 3- allegations that the Applicant directed United Nations personnel to use United Nations vehicles to drive his relatives for personal errands (OIOS Case No. 0145/22 – “the vehicle misuse case”).
- d. Case No. 4- allegation that the Applicant arranged for 12 truckloads of high-end ESCWA office furniture to be delivered to the premises of his brother (OIOS Case No. 0075/22 -- “the furniture case”).

3. On 7 April 2022, the Executive Secretary of ESCWA placed the Applicant on administrative leave with pay (“ALWP”) for one month. Subsequently, his ALWP was extended until 7 July 2022.

4. On 12 July 2022, the Applicant commenced extended certified sick leave. His sick leave continued until 2 December 2022 when he went on annual leave.

5. The Applicant resigned from the Organization effective 15 April 2023, prior to the conclusion of the investigations in some of the cases against him.

6. On 23 August 2024, the Assistant Secretary-General for Human Resources (“ASG/HR”) issued the first contested decision. In her letter to the Applicant, the ASG/HR found “on the preponderance of evidence” that the Applicant had: called the victim in Case No.1 days after her interview for a position and asked about her personal circumstances; messaged the victim in Case No. 1 with romantic connotations; and yelled at the victim in Case No. 2 in an “aggressive and meaning tone in front of others.” The ASG/HR further stated:

In the circumstances, your failure to meet the standards expected of a UN Staff Member constituted unsatisfactory conduct. I have decided that, had you remained in the service of the Organization, your conduct would have warranted the administrative measure of a written reprimand, pursuant to Staff Rule 10.2(b)(i), in addition to managerial and gender training. Given a reprimand letter is normally placed on the official status file of serving staff members, this letter will be placed on your official status file.

7. Regarding the second contested decision, the Respondent advised the Applicant and the Tribunal in his reply that OIOS had closed its investigation in the furniture case on 23 January 2024, due to the Applicant’s resignation and refusal to be interviewed.

Procedural background

8. On 8 November 2024, the Applicant filed the present application.

9. The Respondent submitted a reply on 13 December 2024 where it is argued that the contested decisions are not receivable and if found receivable, the application lacks merit.

10. The Applicant filed a rejoinder on 27 January 2025.

11. On 11 April 2025, the Applicant requested the admission of additional evidence in the form of testimony from a current security officer at ESCWA. However, on 1 August 2025, the Applicant filed a Withdrawal of Proposed Additional Evidence indicating that he would no longer be offering evidence from the security official and expressing his regret for any inconvenience and additional work caused by his filings in this regard.

12. The parties filed their closing submissions on 1 September 2025 and 3 September 2025, respectively.

13. Having read all the submission on record in this case, the Tribunal considers itself to be sufficiently informed to be able to determine the case.

Submissions

Receivability

Respondent's submissions

14. The Respondent submits that the 23 August 2024 decision to place a note in the Applicant's OSF is not receivable *ratione materiae* because the Applicant has not requested management evaluation of that decision. Under staff rule 11.2(a), requesting management evaluation is a mandatory first step in the appeal process.

15. The Respondent also contends that Applicant's claim relating to the omission to close pending investigations against him (OIOS Case No. 0075/22) is not receivable *ratione materiae* for several reasons. First, it is moot because OIOS closed the case on 23 January 2024; second, the alleged failure to close the case was not a reviewable administrative decision because it did not have an adverse

impact on the Applicant's rights; and third, the omission claim is not receivable because the closure decision is in the Applicant's favour.

Applicant's submissions

16. The Applicant argues that the 23 August 2024 decision is receivable *ratione materiae* because it meets the requirements of staff rule 11.2 (b) which exempts from the requirement for management evaluation decisions to impose disciplinary or administrative measures following the completion of a disciplinary process.

17. Regarding the omission claim, the Applicant challenges the averment that OIOS closed the case on 23 January 2024. The Applicant argues that section 7.1 of the ST/AI/2017/1, requires OIOS to inform the subject of the investigation, in writing, that the investigation has been closed, but that he has received no such notice, nor has the Respondent presented any evidence that such notice was provided.

18. The Applicant also argues that OIOS Case No. 0075/22 was the basis for placing him on ALWP and that the Respondent infringed his right to be informed of the closure of investigation, which put him through a time of uncertainty, humiliation, and physical and mental suffering as attested by the medical reports provided in the application.

Consideration

Receivability of claim regarding failure to close OIOS Case No. 0075/22

19. The Tribunal finds that the Applicant's challenge to an alleged failure to close OIOS Case No. 0075/22 (the furniture case), is moot and thus not receivable.

20. As the Appeals Tribunal explained in *Kallon* 2017-UNAT-742, para. 44, "a judicial decision [would] be moot if any remedy issued would have no concrete effect because it would be purely academic or events subsequent to joining issue have deprived the proposed resolution of the dispute of practical significance."

21. Here the Respondent has indicated in his written submissions to the Tribunal that OIOS closed the case on 23 January 2024, a statement which is binding on the Respondent for all purposes. No further proof or evidence of the decision is required beyond this judicial admission.

22. The Applicant argues that he was not informed of the closure and that ST/AI/2017/1, para. 7.1 requires that OIOS inform the subject in writing that an investigation has been closed. He says this “is of particular importance since this case was the main reason, at the time, to place the Applicant on ALWP.”

23. The Applicant correctly recites the provision requiring notice when an investigation has been closed. However, beyond the Tribunal pointing this out to the Respondent (as it does so herein), there would be no practical effect to litigating and deciding a case that the Respondent decided not to pursue.

24. Regarding the impact of this case on the decision to place the Applicant on ALWP, he acknowledges that “it is true that the Applicant did not contest the decisions to place him on ALWP in due course”. Thus, he has no right to complain about any harm arising from the ALWP.

25. Also, it is important to note that OIOS Case No. 0075/22 was closed almost two years after the decision to place the Applicant on ALWP and 18 months after the ALWP was ended. Thus, any failure to provide notice of the closure did not affect his ALWP.

26. Even if the Applicant had contested the ALWP decision, a contested decision to place a staff member on leave with pay is rendered moot when the leave has ended. *Hamdan* 2020-UNAT-1050, para. 32.

27. Furthermore, the evidence submitted in support of his alleged damages fails to connect it to the failure to close OIOS Case No. 0075/22 (the furniture case). The medical reports all predate the closure of Case No. 0075/22, and therefore any failure to provide notice thereof. The doctor’s notes refer only vaguely to “over pressure at work” and “an incident at work in March 2022, which was excessively traumatizing.” Again, the unidentified incident in March 2022 was before both the

ALWP decision and the closure of OIOS Case No. 0075/22. There is no evidence that attributes this medical condition to a failure to close OIOS Case No. 0075/22, particularly given the numerous other cases that were pending against him.

28. So, the Tribunal determines that the second contested decision is not receivable as moot.

Receivability of claim regarding the 23 August 2024 letter

29. On the other hand, the Applicant's challenge to the 23 August 2024 decision to place a letter of reprimand in his official status file is receivable, despite the Respondent's contrary argument.

30. Staff Rule 11.2(b) provides that "A staff member wishing to formally contest an administrative decision... taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff rule 10.2 following the completion of a disciplinary process is not required to request a management evaluation."

31. The 23 August 2024 decision falls within its provisions, as rule 10.2(b)(i) expressly identifies a "written or oral reprimand" as a non-disciplinary measure within the meaning of the rule. The contested decision was taken by the ASG/HR, who is based at Headquarters in New York, and the ASG/HR's letter recounts all the steps in the disciplinary process that lead up to the contested decision:

- a. An investigation was conducted which indicated that misconduct may have occurred;
- b. The Applicant was notified in writing of the allegations and given an opportunity to respond to those allegations, which he accepted and submitted comments;
- c. The ASG/HR reviewed the investigation report, the Applicant's comments, and the supporting material for each;

d. The ASG/HR made findings that the Applicant engaged in the alleged conduct, that the conduct “failed to meet standards expected of international civil servants, and constituted unsatisfactory conduct;”

e. The ASG/HR also found that the Applicant had been “accorded a fair procedure in accordance with the Organization’s regulations, rules and other administrative issuances during the investigations and the subsequent process;” and

f. The ASG/HR concluded that “[i]n the circumstances, your failure to meet the standards expected of a UN Staff Member constituted unsatisfactory conduct. I have decided that, had you remained in the service of the Organization, your conduct would have warranted the administrative measure of a written reprimand, pursuant to Staff Rule 10.2(b)(i), in addition to managerial and gender training. Given a reprimand letter is normally placed on the official status file of serving staff members, this letter will be placed on your official status file.”

32. Curiously, in the face of all this evidence, the Respondent argues that “the ASG/OHR decided not to initiate a disciplinary process”. The basis for this claim is that, buried in the eight-page letter from the ASG/HR’s office requesting the Applicant’s comments (dated 19 April 2024), was the following sentence: “Kindly note that this letter does not constitute formal allegations of misconduct as provided for in section 8 of ST/AI/2017/1.”

33. The phrase “formal allegations of misconduct” does not appear in section 8 or anywhere else in ST/AI/2017/1. But the Administrative Instruction (“AI”) does give insight into the disciplinary process.

34. Section 7.2 provides that “[w]here an OIOS investigation finds that there is a factual basis indicating that the staff member engaged in unsatisfactory conduct, the Under-Secretary-General for Internal Oversight Services shall...[s]ubmit the investigation report to the [ASG/HR], together with all relevant supporting documentation ...”

35. Section 8 is entitled “Disciplinary Process” and provides in para. 8.1 that, upon receiving the investigation report, the ASG/HR shall assess the report and may obtain further information. Para.8.2 then provides that the ASG/HR “shall decide whether to take one of three courses:

- (a) Initiate a disciplinary process pursuant to staff rule 10.1 (c) by issuing written allegations of misconduct pursuant to section 8.3;
- (b) Take managerial actions and/or administrative measures, if the unsatisfactory conduct, in the view of the Assistant Secretary-General for Human Resources Management, does not rise to the level of misconduct, or refer the matter to the responsible official for possible managerial and/or administrative action; or
- (c) Close the matter; in such a case, the Assistant Secretary-General for Human Resources Management shall inform the subject staff member, the responsible official, OIOS and, if the investigation report contains a finding of financial loss to the Organization, the Controller.

36. Under the subheading “*Disciplinary process*”, para. 8.3 details what happens next:

Following a decision to initiate a disciplinary process, the Assistant Secretary-General for Human Resources Management shall provide the staff member with:

- (a) The allegations of misconduct in writing, which should include the specific obligations or standards of conduct that the staff member breached;
- (b) Notification of: (i) The staff member’s right to respond to the allegations of misconduct and to provide any evidence within a specified period in accordance with section 8.5¹; (ii) The staff member’s right to seek the assistance of counsel through the Office of Staff Legal Assistance, or from other counsel at the staff member’s own expense; and (iii) In relevant cases, the possibility of financial recovery if misconduct is established;
- (c) A copy of the investigation report and the relevant supporting documentation. The copies of such documentation provided to a staff member may be subject to any measures, including redaction, adopted to ensure that the interests of the Organization or its staff

¹ Section 8.5 in turn provides that the accused “member shall be given an opportunity to respond in writing to the allegations of misconduct within one month of the date of receipt of the allegations [and may request additional time with certain requirements]. If no response to the allegations of misconduct is received within the specified time limit, the matter may nevertheless proceed, without further notice to the staff member.”

members, including privileged information and safety and security concerns, are not adversely affected by the disclosure of particular information.

37. In addition to this legal background, it is important to view the matter in its factual context.

38. On 26 October 2023, the ASG/HR sent the Applicant a letter attaching memoranda from the Director of OIOS, together with the investigation reports for four separate cases (two alleging sexual harassment and two alleging misuse of UN assets and abuse of authority). The ASG/HR noted that the Applicant had resigned while the matters under investigation had not been resolved and that the administration was considering whether to pursue “post-separation disciplinary processes.”

39. The ASG/HR asked if the Applicant would “agree to participate in and cooperate with any disciplinary processes until their conclusion.” Additionally, the letter said that, even if he did not agree to cooperate,

the cases may nevertheless proceed through post-separation disciplinary processes. The Organization would then come to a conclusion based on the record. The outcome can be that, if the allegations are established, the Organization would record the disciplinary measure(s) that would have been imposed had you remained in service with the Organization.

40. The record indicates that the Applicant expressed his willingness to cooperate with a post-separation disciplinary process by emails dated 9 November 2023 and 22 January 2024.

41. The ASG/HR next wrote to the Applicant on 5 April 2024 indicating that, regarding the two cases of alleged misuse of United Nations assets and abuse of authority, “the Administration has decided not to pursue these matters through post-separation disciplinary processes.” The letter also said that the two matters concerning allegations of sexual harassment (the matters giving rise to the contested decision) were “ongoing”.

42. Two weeks later, the ASG/HR's office sent the 19 April 2024 letter regarding the remaining two cases. It referenced the 26 October 2023 letter, the OIOS referrals and the two investigation reports together with supporting documentation. The letter also made note of the Applicant's expressed willingness to cooperate with a post-separation disciplinary process before stating: "In this letter, I set out the allegations arising from the two above-mentioned investigation reports. I am seeking your comments in relation to these allegations." It concluded that the Applicant may send any comments:

within one month of your receipt of this letter. Please be advised that, if you do not provide any comments within the allotted time period or make a request for an extension of time in which to submit your comments, this post-separation matter case may nevertheless proceed.

43. The Applicant sent his comments by email within the prescribed time. Thereafter, the contested decision was issued.

44. It is clear that the Organization requested and received the Applicant's agreement to cooperate with a post-separation disciplinary process and then followed the prescribed steps for a disciplinary process, culminating in the contested decision.

45. Other than the buried sentence, the process in this case is clearly a "disciplinary process" as contemplated by the staff rules and commonly understood by anyone familiar with the United Nations' disciplinary process.²

46. Having called this process a "post-separation disciplinary process" repeatedly in communications on 26 October 2023, 5 April 2024, and 19 April 2024, the Respondent now cannot recast it on the basis of a buried and vague sentence.

47. In his filings with this Tribunal, the Respondent never commits to what type of "process" this was, if not a post-separation disciplinary process. Clearly, the

² In the colloquial phrase "if it looks like a duck, swims like a duck, and quacks like a duck, then it probably *is* a duck." On all accounts the process leading to the contested decision was described as a post-separation disciplinary process and looks like a disciplinary process.

“process” was not an application of the AI provisions for what should happen if a staff member separates before an investigation or disciplinary process is completed:

9.7 A note will be prepared in order to document cases in which a staff member who is the subject of a report of unsatisfactory conduct separates from service before the investigation or the disciplinary process is concluded. Prior to placing a copy of the note in the former staff member’s service records, the Office of Human Resources Management will transmit a copy of the note to the most recent contact information on file for the former staff member.

9.8 The former staff member shall be given the opportunity to comment in writing on the note within a period of not less than two weeks. After the expiration of this period, the note may be placed on the staff member’s service records, together with any comments provided.

9.9 The note placed on the former staff member’s service records will indicate that the Office of Human Resources Management should be notified if the former staff member rejoins the Organization or another organization that is a member of CEB. Section 3.9 (d) of the administrative instruction on the administration of fixed -term appointments (ST/AI/2013/1), regarding the effect of resignation during the investigation or disciplinary process, shall be referred to in the note to be placed on the staff member’s service records if the staff member has been requested to continue to cooperate with any investigation and/or disciplinary process and has not responded, has declined or has not cooperated.

48. The contested decision letter does not comply with the process under secs 9.7-9.9. The letter does not contain the language required in sec. 9.9, and the Applicant was not given an opportunity to comment on the letter before it was placed in his official status file. His comments were restricted to the allegations of misconduct.

49. If the Respondent had intended the process to be something other than a disciplinary process, it could easily have said so. Indeed, the contested decision fails to say it was not taken following a disciplinary process and makes no mention of a need to seek management evaluation.

50. Instead the process seems to have been exactly what the ASG/HR told the Applicant (in her 26 October 2023 letter) would take place if the cases proceeded through a post-separation disciplinary processes: “The outcome can be that, if the

allegations are established, the Organization would record the disciplinary measure(s) that would have been imposed had you remained in service with the Organization.”

51. There seems no legitimate purpose for claiming in the buried and vague sentence that the allegations were not “formal allegations of misconduct” (a term which does not exist in the AI). Instead, when viewed in light of the Respondent’s subsequent arguments that the application is not receivable for failure to request management evaluation, the sentence is obviously an attempt by the Administration to place hidden procedural hurdles on the Applicant in the hopes of avoiding review of its decision by the Tribunal.

52. Permitting the Respondent to do so would deny the Applicant’s right to fair dealing and due process. This Tribunal will not countenance that and finds that the Respondent is estopped from arguing that this was not a disciplinary process.

53. Accordingly, the Tribunal determines that the contested decision was taken following the completion of a disciplinary process and that the Applicant was not required to request management evaluation before filing the instant application. Even if it were somehow construed to not be a disciplinary process, the Respondent is estopped from challenging the lack of management evaluation. As a result, the challenge to receivability is denied.

Merits

Applicant’s submissions

54. Regarding the decision to place a reprimand letter in his official status file, the Applicant concedes in his rejoinder that “the decision is lawful as taken according to the rules.”

55. However, the Applicant argues that the 23 August 2024 decision followed a flawed procedure, during which his rights were infringed. In particular, his due process rights were infringed by

(i) the lack of communication in due time about the nature of the alleged misconduct,

(ii) disregard for the Applicant's health and medical constraints in seeking to interview him during the investigations,

(iii) the deliberate disregard of the Applicant's raised concerns about the credibility and the malicious intent of the accusations,

(iv) the breach of confidentiality and lack of investigation thereon,

(v) the lack of fairness and transparency in the handling of the cases due under art. 2.3.4 of the OIOS Investigation Manual, and

(vi) the harassment pattern taking place with opening of multiple unnecessary investigations: eight investigations, mostly resulting in acquittals or trivial findings, amount to institutional harassment.

Respondent's submissions

56. The Respondent submits that the ASG/OHR lawfully exercised her discretion under staff rule 10.2(b) and sec. 8.2(b) of ST/AI/2017/1 (Unsatisfactory conduct, investigations and the disciplinary process). There is a "rational connection" between the 23 August 2024 decision and the information on which it is based. The 23 August 2024 decision outlines: (a) the procedural background of the two sexual harassment cases (OIOS ID cases Nos. 0469/22 and 1190/21); (b) a summary of the Applicant's comments; (c) a comprehensive review of the facts establishing the conduct by preponderance of evidence; (d) a detailed analysis showing the conduct constitutes unsatisfactory conduct; and (e) a proportionate outcome recording all this information in a note on the Applicant's OSF for the Organization's institutional memory.

57. Regarding the Applicant's various claims on the violation of his due process rights during the investigation, the Respondent argues that they are meritless.

Consideration

58. As noted above, the Applicant concedes that “the decision is lawful as taken according to the rules.” This concession is sufficient to establish the presumption of regularity. *Rolland* 2011-UNAT-122, para. 26. *Ibekwe* 2011-UNAT-179, para. 30; *Landgraf* 2014-UNAT-471, para. 28; *Dhanjee* 2015-UNAT-527, para. 30; *Zhuang, Zhao & Zie* 2015-UNAT-536, para. 48; *Staedtler* 2015-UNAT-547, para. 27; *Survo* 2015-UNAT-595, para. 68; *Niedermayr* 2015-UNAT-603, para. 23; *Ngokeng* 2017-UNAT-747, para. 33. “Once the presumption arises, the rebuttal of it should occur only where clear and convincing evidence establishes that an irregularity was highly probable.” *Ngokeng*, para. 34. See also, *Lemonnier* 2017-UNAT-762, paras. 37-39.

59. In examining the merits, the Tribunal finds that many of the Applicant’s arguments are irrelevant to the contested decision. For example, he complains about eight investigations, “of which five official cases and three preliminary investigations [were] later closed.” Of course, the contested decision involves only the investigations that were not closed, so the other investigations are not relevant.

60. He also complains about being placed on ALWP, which he calls “improper handling of ALWP”. However, as noted above, he concedes that “it is true that the Applicant did not contest the decisions to place him on ALWP in due course.” Additionally, a contested decision to place a staff member on leave with pay is rendered moot when the leave has ended. *Hamdan* 2020-UNAT-1050, para. 32.

61. The Applicant complains that the Respondent failed to investigate his allegations of “the malicious intent of the accusations which led to the investigation, all coming from the same person, the former Chief of Security of ESCWA.” He attached two documents to support this claim, although neither does so.

62. The Tribunal will deal with his other arguments *seriatim*.

63. First the Applicant complains of “the lack of communication in due time about the nature of the alleged misconduct,” citing section 5.2.2 of the OIOS Investigation Manual which provides that “the interviewing method must include

additional fairness requirements” and “once a person is identified as a subject of an investigation, then he or she must be informed before or at the commencement of his or her interview, that he or she is the subject of an investigation and of the nature of his or her alleged misconduct” He says that in March 2022, when investigators came to his office and confiscated his laptop and phones, he asked what the investigation was about and was told that it was none of his business.

64. Although the Applicant refers to the OIOS Investigation Manual, the case law is clear that manuals lack legal binding authority. *Pinto* 2018-UNAT-878, para. 23. *Asariotis* 2015- UNAT-496, paras. 20-22; *Krioutchkov* 2017-UNAT-744, para. 38. However, ST/AI/2017/1 contains a similar provision in para. 6.10(b) requiring that the staff member be “[i]nformed in writing, prior to or at the start of the interview, that the staff member is the subject of an investigation and of the nature of the alleged unsatisfactory conduct.”

65. Neither party saw fit to file the investigation reports, making it somewhat difficult to assess the facts surrounding this claim. Indeed, the Applicant gives no specifics as to which investigation(s) he claims this incident related to (including whether it related to the two that gave rise to the contested decision).

66. In his reply the Respondent asserts that Applicant was interviewed on 8 July 2022, regarding OIOS Case No. 0469/22 and at the end of the interview, stated he had no objections to how the interview was conducted. Respondent provided no evidentiary support for this assertion, but the Applicant did not dispute it in his rejoinder. Thus, it is accepted as true.

67. What is in the evidentiary record are four requests to interview the Applicant (dated 8 July 2022, 14 February 2023, 13 March 2023 and 16 March 2023). They all seem to follow the same template and expressly state the allegations reported which gave rise to the investigation, and the nature of his alleged misconduct.

68. In any event, it is quite clear that the March 2022 incident was not an interview, so as a factual matter, the provisions of the OIOS Investigation Manual and AT/AI/2017/1 do not apply.

69. Next, the Applicant argues that “OIOS pursued interviews despite clear medical advice against it, breaching the duty of care affirmed in UNDT jurisprudence.” Although the Applicant does not cite to it, section 6.20 of the AI stipulates that “[i]f a staff member is on certified sick leave, the investigative and disciplinary processes shall normally proceed as envisaged in the present instruction, subject to consultation with the Medical Services Division.”

70. Again, the parties’ failure to provide the investigation reports make it difficult to parse out the interview requests related to this case. However, the unchallenged assertion in the reply sheds some light on this claim.

71. The Respondent says that OIOS interviewed the Applicant on 8 July 2022, regarding OIOS Case No. 0469/22 and that he had no objections to how the interview was conducted. The Applicant does not refute this assertion, and the record shows that the issue of the Applicant’s medical condition first arose on 11 July 2022, three days after this interview. For both reasons, the Tribunal concludes that, at least with regard to the interview in OIOS Case No. 0469/22 (“Case No.1” in the contested decision), there is no basis for Applicant’s claim.

72. As to the other case giving rise to the contested decision, Case No. 2 (OIOS Case No. 1190/21), the record indicates that the initial requests for interviews were in connection with an investigation other than the one leading to the contested decision. Nonetheless, it is helpful to review the chronology relating to the interview attempts.

73. The record indicates that OIOS investigators contacted the Applicant by email on 8 July 2022, seeking to interview him (online via Teams) on Thursday, 14 July. Thirty minutes later, the Applicant responded and asked if the interview could be moved up to 13 July 2022 because “I have urgent family matters to attend to on Thursday.” The investigators agreed and promised to send a Teams invitation for Wednesday, 13 July.

74. However, on the morning of Monday, 11 July 2022, the Applicant went to see a psychiatrist and was advised by the psychiatrist to avoid office matters or anything causing him stress for two months. The Applicant told this to the

investigators and said they could discuss the interview “once I am back from my sick leave.” Then OIOS consulted the Division of Healthcare Management and Occupational Safety and Health (“DHMOSH”) and were told that “based on the medical information available, there was no objection to the Applicant being interviewed”, the Applicant sent an updated medical report to DHMOSH.

75. On 20 July 2022 OIOS told the Applicant that “[f]ollowing advice received from DHMOSH, OIOS will pause further action with regard to seeking an interview with you for the time being.” Further follow-up between OIOS and DHMOSH occurred in November and December 2022 and January 2023.

76. Ultimately, on 1 February 2023, DHMOSH said “with information available to us, we believe Mr. Dik is able to participate in an interview, albeit with accommodations that would allow him to participate remotely, afforded the presence of an individual for support, and with a time limit of 1 hour for each session.”

77. OIOS then reached out to the Applicant on 14 February, 16 March, and 27 March 2024 attempting to schedule his interview. The record indicates that the 16 March 2023 email was in connection with an allegation of “unwelcome conduct towards [the alleged victim in Case No. 2 (OIOS Case No. 1190/21)].” Apparently, these attempts were unsuccessful as the interviews never occurred.

78. Thus, it appears from the record that OIOS was respectful of the Applicant’s medical condition and only approached him about scheduling interviews when the medical officers said he was able to participate. This complied with the Respondent’s duty of care, and the Applicant’s argument is rejected.

79. The Applicant’s third claim is that the Administration disregarded the concerns he raised about “the credibility and malicious intent of the accusations.” According to the record, these concerns were raised twice by the Applicant, after the investigation had been forwarded to the ASG/HR.

80. The first is an email the Applicant wrote to the ASG/HR on 7 May 2023, wherein he claimed “a strong suspicion” that the former Security Chief was

orchestrating the complaints. However, the Applicant did not request an investigation at that point but merely requested the status of the cases against him.

81. The second time he raised his concerns was in his comments in response to the allegations of Case No. 2 (OIOS Case No. 1190/21). In this email, the Applicant says that “[i]t is worth mentioning” that the Security Chief witnessed an incident near the elevators involving VO1, the Applicant, and the ESCWA Executive Secretary. According to the Applicant, the Security Chief later came to his office to tell him that the incident was a case of harassment, to which the Applicant responded that it was the Executive Secretary who had spoken in a raised voice.

82. In the email, the Applicant also said that he wondered why VO1 would think ill of him and that the “only possible logical explanation that I might think of, which might not even be necessarily the case, was that someone has manipulated the young professional into creating such accusations against me... Here, I can only think of [the Security Chief] who has had serious issues with me and the ES.” Again, the Applicant did not request any investigation into his suspicion and only raised it as a possible explanation.

83. Thus, any claim that the Administration failed to investigate is unfounded. There was never a request from the Applicant to investigate “malicious intent.” He merely raised it in his comments on the allegations as a possibility. There is no information upon which the Tribunal might conclude that an investigation would have uncovered evidence to support his suspicion of malicious intent, which the Applicant himself conceded might not be valid.³

84. The record also shows that the claim of manipulation/malicious intent by the former Security Chief was considered by the ASG/HR in reaching the contested decision. However, this claim was rejected because the Applicant admitted many of the key facts and others were supported by documents and/or corroborated by witnesses. Accordingly, the Tribunal denies this claim.

³ The Applicant says in the application that he “is in the process of submitting a disciplinary complaint to OIOS.” Of course, if he submits such a complaint, the handling of that complaint is a matter separate and apart from the contested decision.

85. The Applicant also complains about a breach of confidentiality relating to three anonymous emails sent to and published online by *Inner City Press*. These emails are mainly directed at alleged mismanagement by the ESCWA Executive Secretary, and cites as an example of how she handled the allegations against the Applicant. The Applicant alleges that he complained to the ASG/HR about this breach of confidentiality, but “no actions were taken from both HQ New York and ESCWA to investigate the matter or pose a remedy to it.”

86. The Applicant provides no evidence to support his allegation. Furthermore, any failure to investigate a complaint would be a decision separate and apart from the contested decision in this case. See, e.g., *Oummih* 2015-UNAT-518, para. 31. Accordingly, this allegation is rejected as factually unsupported and not properly before the Tribunal.

87. Finally, the Applicant argues of a “lack of fairness and transparency in the handling of the cases due under Article 2.3.4 of the OIOS Investigation Manual.” He claims that he never received information on any of the cases open against him “throughout the entire period of administrative leave,” which would have been from 7 April to 7 July 2022.

88. Again, this claim is legally premised on the manual, which has no legal force. Moreover, the principle of fairness and transparency mentioned in the manual are general in nature and do not impose any duty on OIOS to keep him updated on developments during an investigation. Indeed, the Applicant has cited no binding legal authority to this effect.

89. The Tribunal notes that Staff Rule 10.3(a) merely prohibits the imposition of a disciplinary measure after the completion of an investigation unless the staff member has been received written notice of the allegations and an opportunity to respond thereto. Therefore, the Tribunal finds no violation of the Applicant’s right to fairness and transparency by any alleged failure to keep him advised as the investigation was ongoing.

90. In sum, the Tribunal finds that the Applicant's arguments against the contested decision lack merit, and the contested decision must be affirmed.

Conclusion

91. In view of the foregoing, the Tribunal DECIDES that the application is denied.

(Signed)

Judge Sean Wallace

Dated this 18th day of September 2025

Entered in the Register on this 18th day of September 2025

(Signed)

Wanda L. Carter, Registrar, Nairobi