



**Decision**

The two applications filed by the applicant with the Geneva Joint Appeals Board, registered as JAB Case No. 649iste -and5.9(C. 649is.4(et)-27regist)-7sp.4(eectiv.4(eelyregist)and the

constitutes an appealable administrative decision. The Internal Justice Council is not a staff representative body pursuant to staff regulation 8.1 and staff rule 108.1.

I.5. The application before the Geneva JAB must concern the same decisions as the request for a management review. The respondent therefore limits his response to the legality of the decision not to appoint the applicant to the Internal Justice Council, since this alone was the subject of the request for a management review.

III.2. The applicant's two applications concern the appointment of members of the Internal Justice Council and contain common arguments. It is therefore appropriate that they be joined and the subject of a single judgment.

III.3. By letters dated 27 and 28 July 2008, the members of the Internal Justice Council informed the Tribunal that they did not wish to intervene in the case.

Programme/United Nations Office for Project Services/United Nations Population Fund, the Office of the United Nations High Commissioner for Refugees, UNICEF, the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the former Yugoslavia, asking them to nominate their candidates for staff representative and external jurist. Most of the bodies did so.

IV.5. On 21 February 2008, PA informed the Deputy Secretary-General that the staff had nominated JC as staff representative by 10 votes to three for the applicant and had nominated CR as external jurist.

On 27 March 2008, the Deputy Secretary-General announced to JC and three

VI.3. Article 2 of the Tribunal's statute states that UNDT "shall be competent to hear and pass judgement on an application filed ... to appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. The terms 'contract' and 'terms of appointment' include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance." Moreover, staff rule 108.1 (e) provides that "In accordance with the principle of freedom of association, staff members may form and join associations, unions or other groupings."

It is thus clear from the United Nations Staff Rules that any United Nations staff member has the right to be a candidate to represent the staff. As Executive Secretary of the UNOG Coordinating Council, the applicant was put forward by a number of SMCC staff representatives as their candidate for election to the Internal Justice Council. It is also true that the applicant's candidacy was not for election as a representative of a staff association but as a staff representative to a council created by a General Assembly resolution. The applicant's candidacy is therefore directly linked to his status as a United Nations staff member and the dispute arising from his non-election is thus related to the rules governing his contract within the meaning of the above-mentioned provisions of the Tribunal's statute. There are grounds therefore for the Tribunal to declare itself competent to judge the application, which must be declared admissible in this connection.

VI.4. The applicant maintains that it was not up to the Secretary-General to choose the staff representative to the Internal Justice Council. However, it is clear from the foregoing that the respondent did not choose JC but simply noted her election by SMCC.

VI.5. The applicant claims that, since the General Assembly had not, in its resolution 62/228 of 22 December 2007, specified the procedure for electing the staff representative, it was not up to the respondent to do so. However, Article 97 of the Charter of the United Nations states that the Secretary-General is the chief administrative officer of the Organization. The Secretary-General is thus, by the very nature of his functions, responsible for implementing the resolutions of the f re8si919s the the procedu  
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rnal Justice Council.

VI.6. The applicant argues that the respondent could not legally entrust SMCC with appointing the staff representative to the Internal Justice Council since SMCC is composed of representatives of both management and staff. Paragraph 1.1 of the Secretary-General's bulletin containing the SMCC terms of reference states: "In accordance with staff rule 108.2, the Staff-Management Coordination Committee

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h United Nations body would have been  
competent to organize the election, whereas SMCC, even if it is a joint body, is the  
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organization of the appointment of the staff representative and the jurist was entrusted to PA, the Vice-President of a joint body, PA is herself a staff member and neither the facts set forth above nor any documents in the file indicate that

## **VII. Concerning the second application**

VII.1. The applicant filed with the Geneva JAB an appeal for rescission of the respondent's decision to appoint the five members of the Internal Justice Council for a period of four years.

VII.2. The respondent raises the in