

The Administrative Tribunal,

Considering the complaint filed by Mr J.M.V. G. against the United Nations Industrial Development Organization (UNIDO) on 20 July 2006;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant and UNIDO signed a service agreement commencing on 1 October 2000 and expiring on 30 September 2001. The complainant was responsible, as a national expert, for information and documentation under the Integrated Programme for Industrial Development in Rwanda (Center for the Support to Small and Medium-sized Enterprises in Rwanda).

Article 8 of the agreement stipulates that “[t]he national expert [...] shall not be considered as being a staff member of UNIDO and shall be covered neither by UNIDO Staff Rules and Regulations nor by the Convention on the Privileges and Immunities of the Specialized Agencies”.

According to Article 13, “[a]ny claim or dispute relating to the interpretation or the execution of this agreement that cannot be settled amicably shall be settled by binding arbitration”.

2. As he considered the non-renewal of his service agreement to be unlawful, the complainant first requested the implementation of the provisions of Article 13 cited above and then brought proceedings before the Kigali court of first instance. The Director of the Human Resource Management Branch then informed him that UNIDO enjoyed immunity from execution and jurisdiction and that the proper procedure for settling the dispute was that provided for under the said Article 13.

The arbitral tribunal that was constituted decided, on the ground that UNIDO had failed to respond to the three summonses addressed to it, that “the arbitration agreement [was] terminate[d] and that the either party [could] refer the matter to the competent judicial authority”.

3. On 20 July 2006 the complainant filed a complaint with this Tribunal, requesting “redress for breaches of provisions [...] of the service agreement” and “compensation for material damages”.

4. This Tribunal clearly has no jurisdiction to hear this case. Pursuant to Article II, paragraph 5, of its Statute “[t]he Tribunal shall [...] be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations of any [...] international organization meeting the standards set out in the Annex hereto which has addressed to the Director-General a declaration recognizing, in accordance with its Constitution or internal administrative rules, the jurisdiction of the Tribunal [...]”.

As the complainant cannot be considered as an official of UNIDO and is not covered by UNIDO’s Staff Rules and Regulations, he has no access to this Tribunal.

5. The complaint must therefore be dismissed in accordance with the summary procedure provided for in Article 7, paragraph 2, of the Rules of the Tribunal.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 3 May 2007, Mr Michel Gentot, President of the Tribunal, Mr Seydou Ba, Vice-President, and Mr Claude Rouiller, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 11 July 2007.

Michel Gentot

Seydou Ba

Claude Rouiller

Catherine Comtet