The Administrative Tribunal,

Considering the second complaint filed by Mr G.M. S. against the International Labour Organization (ILO) on 9 November 2006, the ILO's reply of 23 April 2007, the complainant's rejoinder of 6 July and the Organization's surrejoinder of 10 September 2007;

Considering Articles II, paragraph 1, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to order hearings, for which neither party has applied;

Considering that the facts of the case and the pleadings may be summed up as follows:

A. The complainant, a British national born in 1948, is a former official of the International Labour Office – the secretariat of the ILO − who joined the Office in 1975 and separated from service on 31 March 2006 following his resignation. Facts relevant to this case are to be found in Judgments 2370, 2371 and 2518. At the material time, he held the position of Director of the InFocus Programme on Socio-Economic Security.

It may be recalled that in November 2001 one of the complainant's subordinates lodged a grievance alleging that the complainant had subjected her to moral harassment. The matter was investigated by the then Ombudsperson, who concluded that some of the subordinate's specific allegations were well founded. Following the disclosure of the Ombudsperson's report to a number of unauthorised recipients, the complainant initiated proceedings which culminated in his first complaint before the Tribunal. In Judgment 2371, delivered on 14 July 2004, the Tribunal awarded him damages and costs on the grounds that the unauthorised disclosure of the accusations against him, coupled with the Organization's failure to take adequate measures to protect his reputation, had caused him moral injury.

Since no agreement was reached between the complainant and the subordinate as to the Ombudsperson's non-binding recommendations, the dispute was not resolved at that stage. In due course the subordinate submitted her grievance to the Joint Panel, which considered that, although it did not have sufficient elements to support a finding of harassment, the complainant's conduct constituted a breach of his duty to treat colleagues with dignity and avoid causing them unnecessary hurt. On the basis of the Joint Panel's finding that the complainant's behaviour did not constitute harassment, the Director-General decided to dismiss the grievance. In Judgment 2370, also delivered on 14 July 2004, the Tribunal set aside that decision on the grounds that the conclusions of the Joint Panel on which it was based were flawed. It referred the case back to the ILO for a new decision, whilst mentioning the possibility that a settlement might instead be reached by the parties. The subordinate had in the meantime left the service of the Organization on 31 May 2003.

During the following months the complainant's counsel repeatedly asked the Office to inform him as to what measures were being taken to execute Judgment 2370. In particular, he sought an assurance that any settlement that might be reached would contain no admission of improper conduct on the part of the complainant. He also drew the Office's attention to articles in the Brazilian press reporting that the complainant's former subordinate had won her case of moral harassment, and to an e-mail sent by friends of the latter to members of the International Advisory Board for the complainant's programme, in which the complainant was accused of harassment. He urged the Office to take urgent measures to put a stop to the "campaign of vilification" against the complainant, which, in his view, had clearly been instigated by the former subordinate.

In a letter dated 14 March 2005 the complainant's counsel reiterated these concerns. He also objected to the Office's failure to respond to the complainant's repeated requests to fill a vacant post in his programme. The Office's then Legal Adviser replied, in a letter of 18 May 2005, that it was not the Office's duty or obligation to keep the complainant informed of the actions it was taking to execute Judgment 2370, but that if the issue of the protection of the complainant's rights were to arise in that connection, "the Office would take the appropriate steps". He also stated that the complainant's former subordinate had been reminded of the obligation of confidentiality by which she was bound as a former ILO official. Regarding the unfilled vacancy in the

complainant's programme, he referred to an earlier exchange of correspondence with the complainant, which in his view provided "a clear explanation of the situation".

On 11 July 2005 the complainant submitted a grievance to the Director of the Human Resources Development Department in which he accused the Office of failing to respect his dignity in connection with the unresolved harassment grievance, failing to protect him against a campaign of vilification launched by his former subordinate and her friends, improperly withholding resources from his programme, initiating an unfair and prejudicial evaluation of his programme and effectively demoting him by appointing a Director of a new Social Security Department in which his programme was included. The Office dismissed this grievance by a decision of 28 September 2005. On 26 October the complainant brought the matter before the Joint Advisory Appeals Board (JAAB).

Meanwhile, on 4 April 2005, the complainant's former subordinate had filed an application for execution of Judgment 2370 claiming approximately 530,000 United States dollars in compensation under various heads. In Judgment 2518, delivered on 1 February 2006, the Tribunal ordered the ILO to refer her claim for compensation to a reconstituted Joint Panel without delay and simultaneously to make her a good faith offer of settlement. It awarded her 10,000 Swiss francs in moral damages.

Following the delivery of that judgment, the complainant's counsel asked the Office's new Legal Adviser by e-mails of 7 February and 1 May 2006 to inform him as to what was being done to implement Judgment 2518. He emphasised that if the proceedings before the Joint Panel were to be resumed, the complainant's rights as a party to those proceedings would have to be respected. On 10 May the Legal Adviser indicated that the Joint Panel was being reconstituted.

On 13 June 2006 the JAAB issued its report on the complainant's grievance. It considered that the Office ought to have responded to his requests for information and given him reasonable assurances to the effect that no improper conduct on his part would be acknowledged in any settlement agreement. It found no plausible reason for the delay in the execution of Judgment 2370. Regarding the alleged failure to protect the complainant from a campaign of vilification, the JAAB held that, by omitting to communicate its view that the allegations against him were without merit, the Office had failed in its duty to treat him with consideration and fairness. However, it found that the Office had not abused its discretion in deciding what resources should be allocated to the complainant's programme, and that his allegations concerning the evaluation of his programme were without merit. As for the appointment of the Director of the new Social Security Department, the Board found that the complainant had failed to establish that this discretionary decision was in any way abusive. It recommended that the Office grant the complainant compensation in the amount of 30,000 Swiss francs, "by analogy with [...] Judgment No. 2518", in view of the anxiety caused to him as a result of its inaction following the delivery of Judgment 2370 and its failure to respond to his repeated requests concerning the allegations made against him.

By an e-mail of 22 June 2006 the Legal Adviser informed the complainant's counsel that a settlement had been reached with the former subordinate pursuant to Judgment 2518 and that consequently there was no need for the latter's harassment grievance to be referred to a reconstituted Joint Panel. She assured him that the agreement did not refer to the complainant.

The Director-General's final decision on the complainant's grievance was conveyed to him by the Executive Director of the Management and Administration Sector in a letter dated 14 August 2006, which constitutes the impugned decision. The conclusions and recommendations of the JAAB regarding his first and second grounds of appeal were rejected. The Office was of the view that the recommendation in relation to an award of damages was inappropriate. The Executive Director noted that the Office had in fact replied to several of the complainant's requests for information and that both he and his counsel had met with representatives of the Office during the period in question. With regard to the allegation that the Office had failed to protect him from a campaign of vilification she explained that, in the absence of any final determination under principles of due process as to the truth or falsity of the allegations made, the Office considered that it could not take a formal position or otherwise intervene. Indeed, it did not have access to objective facts as a basis on which to protect the dignity of one party at the expense of another. On the other hand, the Director-General shared the Board's conclusion that the complainant's allegations concerning the withholding of resources from his programme, the evaluation of the programme and his effective demotion were without merit.

B. The complainant contends that the ILO has violated its duty to act considerately and to protect his dignity

and reputation. Following the delivery of Judgment 2370, for two years the Office's tactics of obstruction and delay prevented the harassment grievance from being resolved, and the Office ignored his legitimate desire to clear his name through proceedings affording him due process. He considers that the Office ought to have kept him informed of the progress of its settlement negotiations and taken steps to reconvene the Joint Panel within a reasonable time if those negotiations failed. It should also have given him the assurance he requested as to the content of any settlement agreement. Similarly, he argues that, without taking a position on the truth or falsity of the allegations against him, the Office could at least have issued statements indicating that no conclusion had been reached on the merits of the case, which would have done much to alleviate the damage done to his reputation.

According to the complainant, his working conditions began to deteriorate shortly after the filing of the harassment grievance. In particular, he asserts that after having deprived his programme of the resources that it needed to fulfil its commitments, the Office conducted an unfair and prejudicial evaluation of the programme in which it failed to take into account the impact of the staff shortage it had created. Moreover, it circulated a draft report of the evaluation before obtaining his comments. Shortly afterwards, the Office appointed a Director of the new Social Security Department, thereby depriving him of his management authority over the staff of his programme. Although his programme was due to be wound up by the end of 2005, the Office made no effort to discuss with him his future in the Organization, or to offer him work at the same level as that which he had performed as Programme Director.

The complainant further contends that the impugned decision was not properly motivated. In particular, he points out that no explanation was offered as to why the amount of compensation recommended by the JAAB was considered inappropriate. Nor was any reason given for departing from the Board's finding that his interests and legitimate expectations had been violated as a result of the Organization's delay in executing Judgment 2370. On the other hand, the conclusions reached by the JAAB on a separate appeal he had filed in January 2006, in which he had challenged the proportionality of a proposed disciplinary measure, were quoted extensively. The complainant considers that, in accordance with the requirements of due process, the decision presently impugned cannot be motivated by reference to the matters on which the proposed disciplinary measure was based, because those matters were not raised in the internal appeal proceedings leading to the present complaint.

Lastly, the complainant emphasises that, whilst he has never been found guilty of harassment, he has been treated as if he had, and this has had a devastating effect on his health. He was obliged to take sick leave for much of 2005 and into 2006, and some of his symptoms continue to this day.

He asks the Tribunal to quash the impugned decision, and likewise the decision of 28 September 2005 by which the Director of the Human Resources Development Department rejected his grievance. In addition, he asks the Tribunal to order the ILO to take appropriate measures to protect him against defamatory statements implying that he has been found guilty of harassment, such measures including the publication of an official communication indicating that the substance of his former subordinate's grievance has never been established, an official request to organs of the press to desist from such statements, and the provision of all reasonable assistance he may require in taking legal action against the former subordinate and/or third parties in relation to such statements, specifically by allowing ILO officials to appear as witnesses. He also claims moral damages for physical and mental suffering and for the injury to his reputation, and 20,000 Swiss francs in costs.

C. In its reply the ILO raises several objections to receivability. The complainant's claims for injunctions against the Organization are beyond the competence of the Tribunal. To the extent that his claims refer to the disciplinary proceedings that were the subject of a separate appeal, they are irreceivable because he did not challenge the Director-General's final decision on that appeal within the applicable time limit. Furthermore, his claims are barred by the principle of *res judicata* insofar as they depend on matters already adjudicated in Judgment 2371. Likewise, to the extent that they seek to challenge Judgments 2370 and 2518, his claims are barred by the rule that judgments have effect only as between the parties to them.

On the merits, the ILO denies that the complainant was not kept informed of the actions it took following the delivery of Judgment 2518. It points out that he and his counsel met with the Office's Legal Adviser just ten days after the delivery of that judgment, and that the latter sent several e-mails to the complainant in May 2006 regarding the reconvening of the Joint Panel. Moreover, the complainant's counsel was informed that a settlement agreement, which contained no reference to the complainant and which included an undertaking by the former subordinate to maintain confidentiality, had been signed with the latter.

With regard to the allegation that it failed to protect the complainant from a campaign of vilification, the Organization observes that this can only concern publications or statements made after 14 July 2004, since he made the same claim in his first complaint and the Tribunal ruled on it in Judgment 2371. It notes that the e- mail to members of the International Advisory Board was sent in response to statements which the complainant himself had made in the Brazilian press and contained a clear reference to the published text of Judgment 2370, as did two of the press articles to which he refers. The complainant received written assurances that his former subordinate had been reminded of her duty of confidentiality and that the Office would take appropriate steps to protect his rights if the need arose in the course of its settlement negotiations. However, he chose to ignore those assurances. In accordance with its standard practice, the Office abstained from making any public statement about matters raised in the Tribunal's judgments.

According to the ILO, the decisions concerning the staffing of the complainant's programme were taken in the context of budgetary constraints, solely on the basis of proper criteria and in accordance with the applicable regulations. The evaluation of his programme was conducted as an independent exercise by the Office's Evaluation Unit. The evaluators obtained input from the complainant as well as other staff involved in the programme, and he had the opportunity to submit his views on the evaluation. The Organization also draws attention to the fact that, following the appointment of the Director of the new Social Security Department, the complainant's position, title and reporting relationships remained unchanged, and this was confirmed in a minute sent on 11 July 2005 to all staff of the Department.

The ILO denies that it has caused any deterioration of the complainant's health or indeed of his personal or professional reputation. In this regard, it notes that he continues to have an impressive record of professional activity and that, shortly after his resignation, he was able to travel extensively.

It considers that the Director-General's decision partly rejecting the recommendations of the JAAB provided adequate reasons and that the reference in that decision to the disciplinary proceedings against the complainant was both appropriate and justified. Indeed, official instructions and findings concerning an official's conduct remain in the official's personal file and continue to be relevant to decisions in the context of the relationship between the Organization and the official.

D. In his rejoinder the complainant presses his pleas. He denounces the Organization's attempts to rely on matters raised in an "abortive disciplinary procedure" which, he insists, is irrelevant to the case at hand.

E. In its surrejoinder the ILO maintains its position on both the receivability and the merits of the complaint. It submits that the Director-General was fully justified in taking into account all relevant factors, including the disciplinary proceedings against the complainant, when taking the impugned decision of 14 August 2006.

CONSIDERATIONS

1. The complainant is a former staff member of the ILO. His employment came to an end when his resignation took effect on 31 March 2006.

2. The background to this complaint is to be found in Judgments 2370 and 2371, both delivered on 14 July 2004. Briefly, one of the complainant's subordinates submitted a grievance to the Ombudsperson alleging that the complainant had subjected her to moral harassment. The Ombudsperson's report, which was adverse to the complainant in a number of respects, was communicated to persons who were not entitled to see it. Ultimately, the complainant was awarded compensation in the amount of 30,000 Swiss francs for moral injury, including for the publication of statements that were defamatory of him (see Judgment 2371).

3. The Ombudsperson did not resolve the grievance against the complainant and, in due course, it became the subject of proceedings before the Joint Panel. The Panel was of the view that it did not have sufficient "elements" to conclude that the behaviour in question constituted harassment and the Director-General dismissed the subordinate's claims. She then filed a complaint with the Tribunal which resulted in a finding in Judgment 2370 that the Joint Panel had not based its conclusion on all the facts. In the result, it was ordered that, unless settled, the matter be sent back to the Organization and referred again to the Joint Panel. By that stage, the subordinate was no longer employed by the Office.

4. As it happened, no steps were taken to reconstitute the Joint Panel until the Tribunal ordered execution by Judgment 2518 delivered on 1 February 2006. At the same time, the Tribunal awarded the complainant's former subordinate moral damages in the amount of 10,000 Swiss francs.

5. The complainant's counsel entered into discussions with the Office shortly after the delivery of Judgments 2370 and 2371 to ascertain what course was being taken and asked for an assurance that, in the event of settlement, there would be no admission of impropriety on the part of the complainant. Later, in a letter of 26 August 2004, his counsel drew attention to certain publications which stated, amongst other things, that the complainant's former subordinate had won a case of moral harassment and detailed some of the claims made by her in the proceedings leading to Judgment 2370. At or about the same time, another publication mentioned the complainant by name. The articles failed to make it clear that there had been no adjudication on the former subordinate's claims and that there had been no finding that the complainant had harassed her. His counsel stated that there could be no doubt that the articles were written at the prompting of the complainant's former subordinate and asked the Office to "take urgent measures to call [her] to order". That letter was not answered.

6. There was further correspondence between the complainant's counsel and the Office between August 2004 and July 2005 and, although there was some response, it did not result in information as to the progress of his former subordinate's grievance against him, it being said in a letter dated 18 May 2005 that "it [was] not the Office's duty or obligation to keep [the complainant] informed of its action in the framework of the execution of a judgment concerning the ILO". In the same letter it was said:

"should the issue of the protection of [the complainant's] rights arise […], which has not been the case, so far, then be assured that the Office would take the appropriate steps."

However, the assurance requested as early as July 2004 that the Office would make no admission of impropriety on the part of the complainant was not forthcoming.

7. It was also said in the letter dated 18 May 2005 that "the Office did not fail to remind [the former subordinate] of her obligation as a former official to maintain confidentiality with respect to all matters relating to her claims and any agreed settlement thereof". At no stage, however, did the Office take any action to make it clear either within the Office or to other persons to whom the former subordinate's claims had been disclosed that there had been no judicial or other determination to the effect that the complainant had harassed her.

8. On 9 July 2005 the complainant lodged a grievance with the Office claiming:

(a) failure to respect his dignity and professional reputation in connection with the harassment grievance submitted by his former subordinate;

(b) failure to protect him against a campaign of vilification in press articles, letters and e-mails;

(c) improper and discriminatory withholding of resources from his programme;

(d) unfair and prejudicial evaluation of his programme; and

(e) his effective demotion.

On 28 September 2005 the Office dismissed that grievance and, in due course, it became the subject of proceedings before the JAAB.

9. On 10 May 2006, before the JAAB issued its report on the complainant's grievance, the Office informed the complainant that it was taking steps to reconstitute the Joint Panel for the purpose of re-examining the harassment grievance. Later, on 22 June, it informed him that the matter had been settled. The complainant was then assured that the settlement agreement was so worded that it contained nothing adverse to him and that it imposed an obligation of confidentiality on his former subordinate.

10. The JAAB issued its report on 13 June 2006, shortly before a settlement was reached between the ILO and the complainant's former subordinate. It recommended that his claims with respect to the withholding of resources, the evaluation of his programme and his effective demotion be dismissed. However, it was of the view that the Office had failed in its duty to treat the complainant with consideration and fairness and had failed to protect his

dignity and professional reputation. It recommended that he be paid compensation in the amount of 30,000 Swiss francs. That amount, it was said, was justified by analogy with Judgment 2518. As earlier mentioned, that judgment resulted in an award of moral damages to his former subordinate in the amount of 10,000 francs.

11. By a letter of 14 August 2006 the complainant was informed that the Director-General had decided to reject the JAAB's recommendation with respect to the claims relating to the failure to protect his dignity and to protect his reputation in the face of adverse publicity, but to accept its recommendation with respect to his other claims. That is the impugned decision. The complainant asks the Tribunal to set aside that decision as well as the decision of 28 September 2005 dismissing his grievance. He maintains all five claims made in his grievance and seeks an order requiring the ILO to take measures to protect him against statements claiming or implying that he had been found guilty of harassing his former subordinate, particularly by publishing a communication to that effect on its website, by officially requesting that those organs of the press that have published such statements refrain from doing so and by assisting him to take legal action against his former subordinate. Further, he claims moral damages as compensation for physical and mental suffering and injury to his reputation, as well as costs.

12. It is convenient to deal first with the pleas relating to the withholding of resources, the evaluation of the complainant's programme and his effective demotion. According to the complainant, these actions were taken against him by way of retaliation for the grievance filed by his former subordinate. It is not disputed that, following her grievance, the latter was transferred out of the complainant's programme and that her post was later held in suspense pending the outcome of proceedings with respect to the non-renewal of her contract (see Judgment 2402 delivered on 2 February 2005). By March 2005 the complainant's programme was being wound up and it was decided to recruit a short-term specialist until the end of 2005 rather than fill the post previously occupied by his former subordinate. A vacancy occurred in another post in April 2002 and was not filled until mid-2003, the reason given being that it was necessary to reimburse the Human Resources Development Department for the transfer of another official to the Sector in which the complainant's programme was located. Another post remained unfilled while its incumbent was on long-term maternity leave and there were delays in relation to an appeal against the refusal of a promotion for another person working in the programme as well as difficulties in relation to other promotions.

13. The ILO argues, in relation to the staffing situation, that the complainant's programme was able to utilise the services of various professionals, both long-term and short-term, from regular and extra-budgetary resources. It further argues that all staffing and promotion decisions were taken on the basis of proper criteria and in accordance with the applicable regulations. It is clear that, notwithstanding the resources made available to the complainant's programme, it was left without core staff for significant periods. However, it was for the Administration and not for the complainant to determine the allocation of resources and, also, the course to be adopted with respect to the transfer of his subordinate and the non-renewal of her contract. None of the matters upon which the complainant relies provides evidence of ill will, improper motive, discrimination or retaliation. In addition, it may be noted that, contrary to the argument of the complainant, the staffing situation did not justify his actions that became the subject of other and unrelated proceedings before the JAAB.

14. Nor is any improper motive to be discerned in relation to the evaluation of the complainant's programme. That evaluation resulted from a proposal to the ILO Governing Body in November 2000 that various programmes be evaluated by 2005. The evaluation of the complainant's programme was one of the last to be conducted and was carried out by the ILO Evaluation Unit and an external evaluator. The complainant asserts that there were deficiencies in the evaluation report and that unfair procedures were adopted. In particular, he complains that the Evaluation Unit sent questions to members of the International Advisory Board to whom an e-mail had been sent by friends of his former subordinate following the publication in a Brazilian newspaper of certain remarks attributed to him. The complainant fails to note that he, himself, was authorised to inform the members of the Advisory Board as to the correct effect of Judgments 2370 and 2371. Moreover, the report acknowledged the staffing problems within the complainant's programme, praised the "dedicated and very hardworking team" and found that "data ha[d] been collected, using innovative ways, and analysed".

15. The complainant also contends that the draft report of the Evaluation Unit was distributed to various individuals and that certain action was taken in response to it before he provided his comments. However, it is clear that the Evaluation Unit was in regular communication with him, that he was given the opportunity to provide comments throughout the evaluation process and that his comments were taken into account in the final report. If there were procedural irregularities – a matter on which the Tribunal makes no finding – they were not such as to indicate any improper motive, much less that the evaluation process was either initiated or continued by way of

retaliation because of the grievance submitted by his former subordinate.

16. In May 2005 and as part of a restructuring exercise that had been under discussion since 2000, the Director-General announced the appointment of a new Director to head a new department in the Sector in which the complainant worked. There was some disagreement between the complainant and the new Director as to the allocation of his, the complainant's, staff to working groups, their utilisation in work outside the complainant's programme and their attendance at a departmental retreat. The terms of reference and information as to the assignment of staff within the new structure were not provided until after the departmental retreat in late June 2005. And it was not until 11 July 2005 that it was made clear that the complainant continued to report to the Executive Director of the Social Protection Sector and not to the new Director. It may be that these matters could have been better handled but they are of a kind that is not unusual in a restructuring exercise. Certainly, they did not constitute effective demotion, as claimed by the complainant.

17. It is necessary now to return to the complainant's plea with respect to the failure to protect his dignity and his reputation. This plea centres on the failure of the ILO to take steps between July 2004, when Judgment 2370 was delivered, and May 2006 to reconstitute the Joint Panel, and its failure to keep him informed of developments and to give him an assurance, as requested shortly after the delivery of that judgment, that, in the event of a settlement being reached with his former subordinate, it would make no admission of impropriety on his part.

18. As the harassment grievance filed by the complainant's former subordinate targeted him personally and he would again be personally involved in the event that it was referred back to the Joint Panel, it was clearly wrong of the Office to assert, as it did in May 2005, that it was under no obligation to inform him of its actions to give effect to Judgment 2370. The complainant had as much interest in the early resolution of the harassment grievance as did his former subordinate, and he was entitled to know whether settlement negotiations were under way and within what period he could reasonably expect the Joint Panel to be reconstituted if there was no settlement. Additionally, he was entitled to be assured, well before May 2005, that the Office would take appropriate steps to protect his rights. As it happened, his right to have an early resolution of the grievance targeting him personally was seriously infringed by the failure of the Office to take proper steps in that regard until May 2006. The JAAB made no error in its finding that, with respect to this issue, "the Office seriously failed in its duty to treat the [complainant] with consideration and fairness and unjustifiably caused him considerable stress and anxiety". It may also be added that there was no error in its further statement that "the Office did not have a duty to consult [him] in preparing its case [in the proceedings that resulted in Judgment 2370]".

19. As already indicated, the complainant was awarded compensation by Judgment 2371 for moral injury, including the publication of defamatory remarks. It follows that his plea of failure on the part of the ILO to protect his reputation cannot comprehend matters that occurred before the delivery of that judgment in July 2004. And there is no evidence that he has been the subject of adverse publications since June 2006, when an obligation of confidentiality was imposed on his former subordinate by the terms of the settlement then reached. Further, there is no reason to doubt that she had been reminded of her obligations in that regard as early as May 2005, when the Office informed the complainant's counsel to that effect.

20. So far as concerns the plea regarding the newspaper and journal publications upon which the complainant relies in support of his complaint, it is relevant to note that the criticism they contained was directed primarily at the ILO rather than the complainant. Although various remarks were attributed to his former subordinate, it is by no means clear that the articles were written at her instigation. The chief fault in those articles was that they did not make it clear that Judgment 2370 had not resulted in a finding of harassment against the complainant. However, that was a matter of public record and was a matter that the complainant could, himself, have drawn to the attention of the authors and publishers without breaching any obligation of confidentiality. Indeed, he was specifically authorised to draw that fact to the attention of the members of the International Advisory Board after they received e-mails from his former subordinate. Of course, that same action could have been taken by the Office, but it was a matter for its judgement whether to do so, it being open to it to form the view that it would be better for all concerned if no further attention was drawn to the matter. In these circumstances it is not possible to conclude that there was a duty to take any particular step to protect the complainant's reputation other than to draw his former subordinate's attention to her obligations. However, the Office's failure to take steps to bring about a resolution of the harassment grievance facilitated the development of a climate and prolonged the period in which statements that were hurtful to the complainant and potentially harmful to his reputation could circulate. That constituted moral injury for which he is entitled to compensation.

21. In Judgment 2371 it was said that the complainant had not established that the events there under consideration had affected his career or caused his health problems. Similarly, in this case he has not established that the events subsequent to July 2004 have had any relevant impact on his reputation or his career which, it seems, has been successfully continued following his resignation. Nor is it established that his resignation was the result of those events rather than the matters that were the subject of other and unrelated proceedings before the JAAB to which reference has already been made. Although it may be accepted that the delay in resolving the harassment grievance and the publications associated with that grievance caused the complainant considerable stress and anxiety for which he should be compensated, he has not established that they have caused any significant or long-term health problems.

22. Although not for the reason given by the JAAB, the amount of 30,000 Swiss francs is proper compensation for the moral injury sustained by the complainant. There should also be an award of costs in the amount of 6,000 francs. The reasons that lead to the conclusion that there was no duty on the ILO to take any particular action to protect the complainant's reputation other than to remind his former subordinate of her obligations also lead to the conclusion that no order should be made for injunctions of the kind sought by the complainant.

DECISION

For the above reasons,

1. The decision of 14 August 2006 is set aside.

2. The ILO shall pay the complainant 30,000 Swiss francs by way of compensation for moral injury.

3. It shall also pay him 6,000 francs in costs.

4. All other claims are dismissed.

In witness of this judgment, adopted on 5 November 2007, Mr Seydou Ba, Vice-President of the Tribunal, Ms Mary G. Gaudron, Judge, and Ms Dolores M. Hansen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 6 February 2008.

Seydou Ba

Mary G. Gaudron

Dolores M. Hansen

Catherine Comtet

Updated by SD. Approved by CC. Last update: 27 February 2008.