

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**K. (No. 2)**

**v.**

**FAO**

**123rd Session**

**Judgment No. 3799**

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Mr E. A. K. against the Food and Agriculture Organization of the United Nations (FAO) on 5 August 2016;

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

Having examined the written submissions;

#### CONSIDERATIONS

1. The complainant filed a complaint impugning the Director-General's final decision dismissing his appeal against the decision not to extend his contract.

2. The complainant indicated in the complaint form that he received the impugned decision on 5 May 2016. The same date is mentioned in his brief as the date on which he received an electronic copy of the impugned decision. He filed his complaint with the Tribunal on 5 August 2016, as indicated in the postmark on his submission.

3. Article VII, paragraph 2, of the Tribunal's Statute provides that "[t]o be receivable, a complaint must [...] have been filed within

ninety days after the complainant was notified of the decision impugned”. It is not within the competence of the Tribunal to extend this period of time set forth by the Statute. The ninety-day period begins to run on the day following the date of notification of the impugned decision. Where the ninetieth day falls on a public holiday, the period is extended until the next business day (see Judgments 2250, under 8, and 3630, under 3).

4. In this case, the ninety-day period provided for in Article VII, paragraph 2, of the Statute ended on 3 August 2016, which was a Wednesday. Accordingly, the complaint filed on 5 August 2016 is time-barred and clearly irreceivable and must therefore be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal.

#### DECISION

For the above reasons,  
The complaint is dismissed.

In witness of this judgment, adopted on 18 October 2016, Mr Claude Rouiller, President of the Tribunal, Mr Giuseppe Barbagallo, Vice-President, and Ms Dolores M. Hansen, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 8 February 2017.

CLAUDE ROUILLER

GIUSEPPE BARBAGALLO

DOLores M. HANSEN

DRAŽEN PETROVIĆ