

R. (No. 24)

v.

IAEA

134th Session

Judgment No. 4525

THE ADMINISTRATIVE TRIBUNAL,

Considering the twenty-fourth complaint filed by Mr R. R. against the International Atomic Energy Agency (IAEA) on 15 September 2021 and corrected on 22 February 2022;

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

Having examined the written submissions of the complainant;

CONSIDERATIONS

1. The complainant filed the present complaint, his twenty-fourth, challenging the refusal of his request to be awarded monetary compensation for the material and moral injury he allegedly sustained as a consequence of the IAEA's failure to investigate allegations of harassment made against him. He submits that the failure to investigate those allegations influenced the decision not to renew his appointment beyond its expiry date of 31 May 2018. That decision was the subject of the complainant's sixth complaint, which the Tribunal dismissed as unfounded in Judgment 4346, delivered in public on 7 December 2020.

2. The internal proceedings that led to the present complaint commenced with a letter of 6 March 2021, in which the complainant requested clarification from the Administration as to whether an investigation had been conducted into allegations of harassment made against him by Mr A., his former supervisor, in two emails dated 2 and 6 June 2016 respectively. On 13 April 2021 he received a reply confirming that there had been no investigation against him, as the Office of Internal Oversight Services had determined that the allegations did not warrant an investigation. The complainant believed that this proved that the decision not to renew his appointment was based on false assumptions, and therefore wrote to the Director-General on 10 June 2021, requesting him “to allow for the review of [the Tribunal]’s Judgment 4346, accordingly providing for an appropriate method for settlement of the labour dispute underlying that Judgment, either through amicable means, or by legal proceedings compatible with the principles enshrined in Resolution 217 of the United Nations General Assembly”. He also claimed an *ex gratia* payment of 50,000 euros for moral damage caused by the failure of the IAEA to investigate harassment claims against him.

3. In the impugned decision, dated 18 June 2021, the IAEA stated that Judgment 4346 has *res judicata* authority and rejected the request for an *ex gratia* payment.

4. Ordinarily, a decision not to conduct an investigation into allegations of harassment and to close the case without further action would not be regarded as a decision adversely affecting the official subject of the allegations, who therefore would have no cause of action to challenge such a decision.

5. The IAEA was correct and there is nothing unlawful in the impugned decision. The complainant claims material damages to compensate for his “loss of opportunity to have his fixed-term contract renewed”. But the lawfulness of the decision not to renew his contract is *res judicata*. Unless Judgment 4346 is reviewed by the Tribunal, both the complainant and the IAEA are bound by *res judicata* authority of the judgment.

6. It follows that the complaint must be summarily dismissed in accordance with the procedure set forth 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 27 May 2022, Mr Michael F. Moore, President of the Tribunal, Mr Patrick Frydman, Vice-President of the Tribunal, and Ms Hongyu Shen, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 6 July 2022 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE

PATRICK FRYDMAN

HONGYU SHEN

DRAŽEN PETROVIĆ