

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

M.

v.

Interpol

137th Session

Judgment No. 4813

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr M. M. M. against the International Criminal Police Organization (Interpol) on 15 July 2023;

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 and the documents produced by Interpol on 8 August 2023 at the request of the President of the Tribunal;

CONSIDERATIONS

1. The complainant is a former staff member of Interpol whose fixed-term appointment was terminated during the probationary period due to unsatisfactory performance. He was informed of this decision on 11 August 2022. On 24 August 2022, he challenged it in a request for review, which was rejected on 6 October 2022. On 22 November 2022, he lodged an appeal in which, in addition to challenging the decision to terminate his appointment, he complained about not having received his final payment following his termination. Interpol referred the appeal to the Joint Appeals Committee (JAC) on 1 December 2022.

On 8 June 2023, the complainant was informed of the composition of the JAC and was given until 22 June 2023 to supplement his appeal. No additional submissions were received by the JAC by that date. The Administration was then invited to submit its reply by 17 July 2023, which it did on that same day, that is two days after the filing of the present complaint.

2. In the complaint form, the complainant identifies the impugned final decision as being that of 6 October 2022. He asks the Tribunal to order his reinstatement or to award him compensation in the total amount of 8,047,456.48 euros.

3. It is firmly established in the Tribunal's case law that, in order to comply with Article VII, paragraph 1, of the Statute of the Tribunal, which provides that a complaint is not receivable unless the decision impugned is a final decision and the person concerned has exhausted such other means of redress as are open to her or him under the applicable Staff Regulations, the complainant must follow the available internal appeal procedures (see, for example, Judgments 4634, consideration 2, 3749, consideration 2, and 3296, consideration 10). The case law further states that a staff member of an international organisation cannot of her or his own initiative evade the requirement that internal remedies must be exhausted prior to filing a complaint with the Tribunal (see Judgments 4056, consideration 4, 3458, consideration 7, 3190, consideration 9, and 2811, considerations 10 and 11, and the case law cited therein).

4. It is clear from the provisions contained in Chapter 13 of Interpol's Staff Manual, which govern the disputes resolution system, that, once an official has addressed a request for review to the Secretary General, the latter shall take a decision that can – in case of rejection of the request – be challenged by way of an internal appeal. If the Secretary General deems the appeal receivable, she or he shall consult the JAC prior to taking a final decision on the merits. It is this decision – or, as the case may be, a decision declaring that the appeal is irreceivable – which can be impugned before the Tribunal.

5. In the present case, as indicated above, the complainant's request for review was rejected by a decision of 6 October 2022, which then became the subject of his internal appeal. The complainant filed the present complaint on 15 July 2023, prior to the completion of the JAC's proceedings and, hence, while his appeal was still pending. Thus, the 6 October 2022 decision is not a final decision within the meaning of Article VII, paragraph 1, of the Tribunal's Statute as the internal means of redress have not been exhausted. The decision to terminate the complainant's appointment could only be challenged in the context of a complaint directed against the final decision taken by the Secretary General following the delivery of the JAC's consultative opinion.

6. It follows from the foregoing that the complaint is clearly irreceivable and must be summarily dismissed in accordance with the procedure set out 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 17 November 2023, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 31 January 2024 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

MIRKA DREGER