Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

K. (No. 2)

v.

ITU

135th Session **Judgment No. 4584**

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Mr E. K. against the International Telecommunication Union (ITU) on 13 May 2019, ITU's reply of 21 August 2019, the complainant's rejoinder of 28 October 2019, ITU's surrejoinder of 28 January 2020, the complainant's further submissions of 7 February 2020 and ITU's final observations thereon of 12 March 2020;

Considering the Tribunal's request for further submissions of 26 September 2022 and the documents produced by ITU on 28 September 2022;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

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

The complainant seeks the cancellation of the competition organised to fill the grade P.4 post of programme coordinator that he had held in the ITU Regional Office for Africa until his retirement.

Facts relevant to this case are to be found in Judgment 4370, delivered in public on 18 February 2021, in which the Tribunal dismissed the complainant's first complaint. In that case, the complainant impugned ITU's decision to retire him on 31 July 2017, that is at the end of the

month in which he reached the age of 62, even though he had not completed the five years of contributions required for a retirement pension to be paid by the United Nations Joint Staff Pension Fund (UNJSPF).

As the complainant was due to retire on 31 July 2017, the Director of the Regional Office for Africa told him in an email of 7 April 2017 that his post was to be advertised. The complainant expressed his disagreement with his mandatory retirement in two emails dated 8 and 10 April 2017 respectively. The vacancy notice for the complainant's post was published from 5 June to 6 August 2017 and invited both internal and external candidates to apply. The complainant submitted an application on 8 June 2017, which was treated as an application by an internal candidate. After he retired, the complainant was interviewed and shortlisted for the post in question. However, Ms J. was appointed as programme coordinator at the end of the selection process. The complainant was informed that his application had been unsuccessful in an email of 14 May 2018, which stated that his qualifications and experience had aroused interest but another candidate whose profile more closely fitted the requirements of the role had been chosen.

The complainant submitted a request for reconsideration of that decision to the Secretary-General on 21 May 2018. As he did not receive a reply, he lodged an internal appeal, in which he sought the cancellation of Ms J.'s appointment, his own appointment to the post at issue, and an investigation into the favouritism that had, according to him, dominated recruitment procedures in the Regional Office for Africa over the previous 10 years in order that various measures be adopted, including the imposition of exemplary disciplinary penalties. In the opinion that it delivered on 20 December 2018, the Appeal Board recommended that the complainant's claims be rejected. By a letter of 18 February 2019, which constitutes the impugned decision, the Chief of the Human Resources Management Department notified the complainant on the Secretary-General's behalf that the latter had decided to reject his appeal.

The complainant asks the Tribunal to set aside Ms J.'s appointment, to order that he or another deserving candidate be appointed to the post at issue and to award him compensation for the material and moral injury he submits he has suffered. He also requests that an investigation be initiated with a view to determining the "respective individual responsibility of all staff members guilty of the acts of manipulation and favouritism" that allegedly led to Ms J.'s appointment to a previous post in 2013 as well as to the post for which the disputed competition was held in 2018 in order that appropriate penalties be imposed on those concerned. Lastly, in his submissions, the complainant requests the disclosure of various documents.

ITU requests the Tribunal to dismiss the complaint as unfounded. Having forwarded a copy of the complaint to Ms J. at the Tribunal's request, the organisation provides her comments in an annex to its reply. ITU has also provided several of the documents requested by the complainant as annexes to its briefs.

CONSIDERATIONS

1. The complainant impugns the decision of 18 February 2019 in which the ITU Secretary-General dismissed, in accordance with the Appeal Board's opinion, the internal appeal he had lodged against the appointment of Ms J., who succeeded him in the grade P.4 post of programme coordinator in the Regional Office for Africa. That appointment was announced following a competition organised on account of the complainant's retirement, which occurred on 31 July 2017 after he had reached the mandatory retirement age. Nevertheless, for the reason explained below, the complainant had been allowed to apply for the post, though his application ultimately proved unsuccessful.

Relevantly, at the same time as participating in the competition, the complainant had challenged his mandatory retirement. The complaint that he filed with the Tribunal seeking the setting aside of the decision confirming his retirement at the end of the internal appeal procedure was dismissed in Judgment 4370, delivered in public on 18 February 2021. The complainant filed an application for review of that judgment,

but that in turn was dismissed in Judgment 4440, delivered in public on 7 July 2021.

2. In a complaint filed on 9 August 2022, consisting of an application for interpretation of Judgment 4567, delivered in public on 6 July 2022, in which the Tribunal dismissed an application for interpretation of Judgment 4370, the complainant sought the recusal, in all cases which concerned him, of the judge presiding over the panel charged with hearing and determining the present complaint on the grounds that the judge had presided over the panels that had dismissed the complainant's previous complaints, had proposed that some of those complaints be examined under the summary procedure provided for in Article 7 of the Rules of the Tribunal, and had been involved in creating case law that went against the complainant's interests.

Ordinarily, except in cases of necessity, a judge will not be involved in adjudicating a case if there is a reasonable apprehension that she or he will not take a completely objective view owing to a risk of a lack of impartiality in her or his determination. In the present case, the complainant's application for recusal does not refer to any fact substantiating the existence of such a situation. The complainant's submissions in this respect do not rest on any specific evidence that might suggest bias against him when the cases in question were adjudicated. The mere fact that a complainant is unsuccessful in proceedings before a panel in which a judge participated cannot alone warrant the recusal of that judge in subsequent proceedings involving the same complainant (see Judgments 4520, consideration 1, or 110, consideration 1). The same applies to a situation in which a judge, in her or his capacity as President or Vice-President of the Tribunal, has taken decisions unfavourable to the complainant or in which that judge has participated in creating case law contradicting the complainant's arguments in a complaint. In these circumstances, the application for recusal cannot be granted. Indeed, it must be emphasised that a judge has a duty to hear and determine a case allocated to her or him, and a decision to recuse which was not properly founded would constitute a breach of that duty (see aforementioned Judgment 4520, consideration 1).

3. At the outset, the Tribunal observes that, in the particular circumstances of the case, the fact that the complainant was allowed to participate as a candidate in the competition organised to fill his own post when he retired was unexceptionable, even though this created a rather unusual situation. This singular feature of the present case is explained by the policy of gradually increasing staff members' mandatory retirement age implemented at ITU as at other organisations in the United Nations common system at the material time. Under that policy, Staff Regulation 9.9, in the version then applicable, provided that the mandatory retirement age, which stayed at 60 years as originally for staff members recruited before 1 January 1990 and had been set at 62 years for those appointed between 1 January 1990 and 31 December 2013 (including the complainant, who had joined ITU on 1 April 2013), was raised to 65 years for those appointed from 1 January 2014. Accordingly, while it was right, as the Tribunal found in Judgment 4370, for the complainant to be compelled to retire on 31 July 2017 because he had reached the age limit of 62 years that applied to him, there was no legal obstacle to his being reappointed by virtue of the provision stating that staff members appointed from 1 January 2014 were to be retained in active service until the age of 65 years. Furthermore, the possibility of reappointing a staff member who has left ITU is expressly provided for in the Staff Regulations, of which Regulation 4.13, setting out the legal framework for such "[r]eemployment", states in particular that, as a rule, a former staff member "on reappointment shall be regarded as becoming a staff member for the first time". The complainant's application for the competition at issue was therefore admissible on the same basis as those of other candidates – whether internal or external –of the same age.

4. In support of his complaint, the complainant first submits that the impugned decision of 18 February 2019 is rendered unlawful by various defects affecting the internal appeal procedure that led to it being adopted.

In the first place, he contends that the request for reconsideration he had initially lodged against Ms J.'s appointment pursuant to Staff Rule 11.1.2(1) did not receive a reply from the Secretary-General within the period of 45 days specified in Staff Rule 11.1.2(2). According to

ITU's explanations on this point, a decision on the request for reconsideration had in fact been taken but owing to an unfortunate administrative error had been sent to the complainant's old work email address, meaning that the complainant, who no longer had access to that address, could not be aware of it. That error is plainly regrettable, but the Tribunal notes that, under Staff Rule 11.1.3(7)(b)(ii), a staff member who submits a request for reconsideration may, if she or he does not receive a reply to that request within the prescribed time limit, submit an appeal to the Appeal Board, as the complainant did in this case. Moreover, it is not disputed that ITU forwarded the decision rejecting the complainant's request for reconsideration and the appended documents to him during the appeal procedure before the Appeal Board and that he had the opportunity to comment on those documents in that procedure. In these circumstances, the Tribunal considers that the failure to provide proper notification of the decision in question did not, in the present case, in fact breach the complainant's right of appeal nor in consequence render the final decision taken at the end of the internal appeal procedure unlawful.

In the second place, the complainant argues that this final decision was not communicated to him, as required under the combined provisions of Staff Rule 11.1.3(7)(i) and Staff Rule 11.1.4, within the time limit of 205 days from the date of submission of his appeal, as it was not communicated until 209 days afterwards. That is factually correct, and it bears noting that the delay was specifically attributable, in this case, to the Secretary-General's failure to observe the 45-day time limit allowed for him to take a decision on the appeal after receipt of the Appeal Board's report. However, time limits of this kind are plainly not intended to have the effect of nullifying a decision taken after their expiry. Their non-observance does not therefore render such decisions unlawful and, where that non-observance is wrongful, it may only entitle the staff member concerned to compensation if it causes injury to her or him (see, for example, Judgments 4408, considerations 5 and 6, or 2885, consideration 14). In the present case, the evidence does not in any event show that the failure to observe the time limit by just four days caused the complainant identifiable injury.

In the third place, the complainant, who points out that the copy of the Appeal Board report that he received was sent on 18 February 2019, the same day he was notified of the Secretary-General's final decision, appears to criticise ITU for not having sent him that document earlier. However, even assuming that ITU thereby breached Staff Rule 11.1.3(7)(h), according to which such a copy must be "promptly transmitted" to the staff member concerned, once again no tangible breach of the complainant's right of appeal or actual injury resulted.

Lastly, the complainant submits – in keeping with his accusations of bias directed against several managers in the organisation, which will be discussed below – that the Appeal Board did not properly examine the merits of his appeal but confined itself "to reiterating the arguments put by senior staff members, close colleagues of the ITU Secretary-General, who were responsible for drawing up the contested decision". However, this serious allegation is not in any way borne out by scrutiny of the Board's opinion, from which it is on the contrary apparent that the Board gave the complainant's submissions detailed and completely impartial consideration.

5. In respect of the challenge to the disputed appointment itself, it must be reiterated that, under the Tribunal's settled case law, a staff appointment by an international organisation is a decision that lies within the discretion of its executive head and, for that reason, is subject only to limited review. It may be set aside only if it was taken without authority or in breach of a rule of form or of procedure, or if it was based on a mistake of fact or of law, or if some material fact was overlooked, or if there was abuse of authority, or if a clearly wrong conclusion was drawn from the evidence (see, in particular, Judgments 4408, consideration 2, 4153, consideration 2, 3188, consideration 8, or 2040, consideration 5). The Tribunal will not replace the organisation's assessment with its own in this matter (see, in particular, Judgments 4100, consideration 5, 3537, consideration 10, 2833, consideration 10(b), or 2762, consideration 17). Furthermore, where an appointment is made on the basis of a selection among candidates for a post, a complainant seeking to have the appointment set aside must demonstrate that there was a serious defect in the selection process which impacted on the outcome of the competition

(see, for example, Judgments 4524, consideration 8, 4208, consideration 3, 4147, consideration 9, or 4023, consideration 2). In particular, it is not enough simply to assert that one is better qualified for the post in question than the selected candidate (see, for example, Judgments 4467, consideration 2, 4001, consideration 4, 3669, consideration 4, or 1827, consideration 6).

The merits of the complainant's submissions against Ms J.'s appointment will be considered in the light of this case law.

6. The complainant enters a number of pleas demonstrating, in his view, the existence of "acts of favouritism and manipulation" and seeking to challenge the conduct of the disputed competition and the selection of the successful candidate.

7. In the first place, the complainant criticises the fact that the "Education" column of the table assessing the applications submitted to the Appointment and Promotion Board only showed the level of the diplomas held by each candidate and not the field of study in which those had been attained. He submits that he was disadvantaged by this presentation of the candidates' education because, while Ms J. held diplomas of the required level, they were in law and, although that subject was among the relevant fields of study listed in the vacancy notice for the post to be filled, in his view it demonstrated that she was less suited to the post than a candidate who, like him, had been trained as a telecommunications engineer.

In its reply, ITU states that the information provided on that point in the table at issue was only intended to indicate to the Appointment and Promotion Board that candidates held diplomas at the level required by the vacancy notice and that proper checks had been carried out beforehand to verify that the diplomas were in one of the areas listed in the notice, as was indisputably the case for those held by Ms J. The Tribunal takes the view that, although it would certainly have appeared appropriate for ITU to specify in the table the field of study in which the diplomas submitted by the candidates had been attained, the organisation was not incorrect to do as it did, particularly since that

information was provided in the candidates' CVs, also given to Board members.

More fundamentally, the Tribunal cannot agree with the complainant's assumption, underpinning many of his submissions, that a "lawyer by training and profession" is bound to be less qualified than an engineer to perform the duties relating to the post of programme coordinator for which the competition was held. ITU explains, in a manner that the Tribunal finds highly persuasive, that, while those duties certainly require solid skills in telecommunications and information and communication technologies (ICT) – which Ms J. had, in the present case, acquired in previous posts – they do not involve the technical design or implementation of telecommunications networks so much as the promotion of ICT development projects, the management of which requires numerous other skills. Moreover, the matter of the suitability of the candidates' profiles for the vacant post, as framed by the complainant, is in reality similar to the issue of the assessment of their merits in the selection process which, as stated above, is not in itself subject to review by the Tribunal.

The complainant further argues that Ms J. did not meet the education requirements for appointment to the grade P.3 post of Programme Officer which she had previously held in the Regional Office for Africa since January 2014, as the vacancy notice which had been circulated at the time with a view to filling that position did not include law as one of the relevant subjects listed. However, apart from the fact that, as ITU points out, the notice also referred to diplomas obtained in a "related field" to those subjects, which could apply to law degrees, the complainant is in any event not entitled to challenge that previous appointment as he has no cause of action and the decision in question has become final. Nor is the complainant entitled to criticise, as he attempts, the lawfulness of several successive contract extensions awarded to Ms J. since she entered into ITU's employment, as this question is not directly related to the disputed selection procedure.

8. In the second place, the complainant complains that the table submitted to the Appointment and Promotion Board stated that Ms J. had "extensive experience in network planning and development activities", whereas his own experience in those areas was not described as "extensive", and that she had "excellent drafting skills", whereas a similar comment was not made regarding his own drafting abilities. He contends that these differences in assessment show that the authors of the document were biased towards Ms J.'s candidacy. However, as the Tribunal stated in Judgment 4154, consideration 4, in respect of a challenge directed against a table of the same type used in another selection procedure organised by ITU, such a table is a summary document which, since it is intended to be accompanied by other information provided to the Appointment and Promotion Board, is not designed to give an exhaustive summary of the candidates' merits, and any deficiencies or inaccuracies therein can be considered a serious defect only if, considered individually or together, they constitute an egregious error. In the present case, although the assessments of the complainant and Ms J.'s comparative merits on the two points at issue were admittedly more favourable to Ms J., there is nothing in the file to suggest that the positive comments made in her respect were not justified. In addition, the complainant's experience in network planning and development activities was also referred to in the table in question, and no negative assessments of him were included. It therefore does not appear, in any event, that the table contained an egregious error on these points. It should be added that it is of course reasonable for managers tasked with drawing up such tables to direct attention to the competences and skills that they consider to be particularly developed in candidates, which in itself does not mean that they can be accused of favouritism.

9. In the third place, again concerning the table, the complainant submits that it was unlawful in that it stated that Ms J. was currently employed at ITU and that he had been retired since July 2017. He argues that ITU thereby surreptitiously introduced a selection criterion of active service within the Organisation which was not stated in the vacancy notice. However, the Tribunal considers that the inclusion of the comments in question, which merely related objective facts about the

two candidates, clearly had neither the aim nor the effect of introducing such an additional selection criterion, which would, moreover, have made no sense in a competition open to external candidates. That finding is borne out by the fact that the complainant, who was shortlisted by the Appointment and Promotion Board to be interviewed by the selection board, did not have his application rejected on the ground that he was retired.

10. In the fourth place, the complainant challenges the appointment recommendation made to the Secretary-General after the selection board's meeting. He criticises the fact that it drew attention to Ms J.'s contribution to the implementation of a project known as HIPSSA designed to harmonise ICT policies and legislation in sub-Saharan Africa, which she had coordinated in a grade P.4 post from January 2012 to September 2013. However, while the complainant submits in this respect that Ms J. only performed that coordinating role for a quarter of the total length of the HIPSSA project, at the end of its implementation, and that it would have been appropriate, in his view, for that recommendation also to include an assessment of her merits in the grade P.3 post she was subsequently assigned at the Regional Office for Africa, the Tribunal considers that these observations are in no way sufficient, in any event, to establish that the recommendation as worded was tainted by a factual error or substantial omission rendering it unlawful.

11. In the fifth place, the complainant submits that there are no objective factors justifying Ms J.'s appointment to the post at issue, given that he had been considered better qualified than she to hold it when the same post was previously advertised in 2012 and he had in the meantime carried out the duties involved in the post for more than four years. However, besides the fact that, as the Organisation states, the assessment of candidates in a selection procedure is independent of any assessment that might have been made in previous competitions and that since 2012 Ms J. had acquired experience highly relevant to the advertised post in her successive positions at ITU, the Tribunal recalls that, under the case law cited in consideration 5, above, the comparative

assessment of the merits of the candidates in a competition is not a matter on which it may express a view.

12. In the sixth place, the complainant submits that Ms J. was improperly present at his interview with the selection board, which took the form of a video conference organised using the application Skype on 21 February 2018. This assertion is based on the fact that Ms J.'s name was displayed on his computer screen as a meeting participant during his interview, as evidenced by a screenshot produced as an annex to the complaint. However, it appears from the file that this plea is based on a misunderstanding of the situation. According to the detailed explanations provided by ITU, the interviews with the various candidates, which took place successively on the same day, were set up as a single video conference in which the candidates were invited to take part in turn by the staff member providing administrative support for the meeting, before being disconnected at the end of their own interview. The choice of this arrangement, which technically speaking is a "group conversation", is corroborated by a list of connections produced by ITU in response to the Tribunal's request for further submissions. It is a known fact that, owing to the way in which Skype functions, the names of the participants in such a group conversation remain displayed on other users' screens until the end of the conversation, even if they have been disconnected in the meantime. Since Ms J. had been chronologically the first candidate to be interviewed by the selection board, the fact that the complainant, whose interview took place immediately afterwards, saw her name on the screen did not mean that she was present during it. Moreover, ITU has submitted in evidence affidavits from two witnesses to the events, both of whom confirm that Ms J. was indeed disconnected at the end of her interview, like every other candidate. Furthermore, the Tribunal notes that, even supposing that Ms J. had attended the complainant's interview as he maintains, she could not, in any event, have derived any advantage therefrom in the selection process, since her own interview with the selection board had already taken place.

13. In the seventh place, the complainant submits that the vacancy notice for the post advertised was amended, as compared with a draft initially drawn up, to include law as one of the fields of study in which the required diplomas could have been awarded, with the sole aim of allowing Ms J. to be appointed. In support of this allegation he produces a document which ITU itself had appended to its surrejoinder to the Appeal Board and which he presents as a draft vacancy notice for the post in question, where law is indeed not mentioned in the list of relevant fields of study. However, the Tribunal notes that ITU did not state when it produced the document in question that it was a draft vacancy notice, as the complainant asserts. Moreover, this document, which consists of two sheets of paper with discontinuous text written in different languages, is affected by an obvious material error which prevents it from being recognised as having any probative value. However, the allegation that the vacancy notice for the post advertised was not initially intended to include law among the areas in which the required diplomas could have been awarded is not credible in any case. The vacancy notice which had been circulated in 2012 for the same post, when the competition leading to the complainant's then appointment was held, included law in the list of relevant fields of study, as is shown by the copy of the notice produced by ITU in response to the Tribunal's request for further submissions. It is therefore difficult to see why this wording would not have been automatically reproduced in the vacancy notice drawn up for the competition organised in 2017. It follows that the plea on this point must be dismissed.

14. In the eighth place and in the same vein, the complainant contends in his rejoinder that the disputed appointment is rendered unlawful by the fact that Ms J.'s personal history form (that is to say, her electronic CV) forwarded to the relevant bodies during the selection procedure did not state what post she had last held.

It is true that because the form was not updated as it should have been when Ms J.'s application was submitted, it incorrectly stated that she had been working as the HIPSSA project coordinator since January 2012, whereas that post had been abolished in September 2013 and, as already stated, she had been working as programme officer in the

Regional Office for Africa since January 2014. That anomaly is plainly regrettable, but the Tribunal observes that it did not have the consequence in this case of depriving the relevant selection bodies of information necessary to carry out their task. First, as is the practice at ITU, Ms J.'s personal history form included a list of her contracts, in addition to a list of posts held, which clearly showed that she had been appointed programme officer in January 2014. Second, the record of Ms J.'s interview with the selection board, which was produced as evidence by ITU, shows that she made substantial reference to her experience in that post. Third, Ms J.'s assignment to that position was plainly well known to the ITU managers responsible for organising the selection procedure, and particularly the Director of the Regional Office for Africa, who, having monitored the progress of the entire procedure, would certainly have provided the members of the various selection bodies with additional information on that point if necessary. In these circumstances, the Tribunal considers that the anomaly affecting Ms J.'s personal history form did not, in this case, constitute a serious defect and cannot therefore warrant the setting aside of the appointment in question pursuant to the case law recalled above.

15. The various pleas examined in the eight preceding considerations will therefore be dismissed in their entirety.

16. The complainant repeatedly contends in his submissions that the Director of the Regional Office for Africa and the Chief of the Human Resources Management Department were motivated by bias against him and in favour of Ms J. According to him, the result was that these two managers at once had a conflict of interest, committed a "misuse of ITU's institutional capacity" and breached the provisions of Staff Regulation 1.4, relating to the conduct of staff members, and the Standards of Conduct for the International Civil Service, in the version made applicable to ITU by Service Order No. 17/07 of 27 April 2017.

As the Tribunal has repeatedly stated in its case law, however, allegations of bias can only be upheld if they are supported by evidence (see, for example, Judgments 4408, consideration 22, 4099, consideration 11, 3914, consideration 7, 3380, consideration 9, or 1775, consideration 7).

In the present case, as far as proof substantiating his accusations is concerned, the complainant refers in his submissions to the alleged acts of favouritism and manipulation that, in his view, are apparent from his various pleas relating to the improper conduct of the contested competition and the unlawful selection of the successful candidate. However, it follows from what has been said above that none of these pleas are well founded and that the reality of these acts has not therefore been established in any event. The file does not therefore contain any evidence of bias.

In that regard, the Tribunal observes that, despite the insistence with which the complainant levies accusations of partiality against the two abovementioned managers, in his submissions he does not provide any credible reason why they deliberately sought to favour Ms J.'s candidacy or to undermine his own from the beginning of the case.

17. With regard to the contention of a conflict of interest, the complainant submits, in addition to the allegations of bias referred to above that cannot be upheld, that he had already indicated that he suspected the two managers in question of partiality in the context of the challenge to his mandatory retirement. He submits that this factor alone should have led them to refrain from any involvement in the selection procedure.

However, the mere fact that a staff member casts doubt on the impartiality of managers who have participated in taking a decision unfavourable to her or him is not sufficient, if the accusation is unwarranted, to prove that a conflict of interest exists. It should be pointed out that the allegation of partiality made against the Director of the Regional Office for Africa and the Chief of the Human Resources Management Department in connection with the decision to compel the complainant to retire was clearly unfounded since, in abovementioned Judgment 4370, the Tribunal found that the decision was lawful. The complainant's allegation of a conflict of interest will therefore be dismissed.

18. The alleged "misuse of ITU's institutional capacity" referred to by the complainant essentially relates to the fact that the two managers in question, and in particular the Chief of the Human Resources Management Department, took various decisions concerning him on the Secretary-General's behalf during the competition and the internal appeal procedure although, according to the complainant, they had a conflict of interest.

However, since, as has just been stated, a conflict of interest cannot be considered to exist, this plea is unfounded. The Tribunal observes, moreover, that the main decisions in the present case were taken by the Secretary-General himself, since the decision appointing Ms J. is duly signed by him and, although the letter of 18 February 2019 informing the complainant that his internal appeal had been rejected was signed by the Chief of the Human Resources Management Department, the wording of the letter makes clear that the decision it was intended to convey in fact came from the Secretary-General. It is true that, as the complainant points out, these decisions were prepared by the abovementioned managers, but again, since there was no conflict of interest, there was no irregularity.

19. Lastly, as the complainant's allegations of partiality and acts of favouritism and manipulation must be dismissed, the plea alleging a breach by the managers in question of Staff Regulation 1.4 and the Standards of Conduct for the International Civil Service, which rest on those same allegations, cannot in any event be upheld.

20. It follows from the foregoing that the complaint must be dismissed in its entirety, without there being any need to order ITU to produce documents other than those it has already provided at the request of complainant or the Tribunal itself. It should be noted, moreover, that the request for an investigation to be ordered with a view to the possible imposition of disciplinary penalties on particular staff members lies outside the jurisdiction of the Tribunal, whose role is not, in any event, to issue orders of that kind (see, for example, Judgments 4439, consideration 4, 4291, consideration 10, or 3858, consideration 7).

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 11 November 2022, Mr Patrick Frydman, Vice-President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 1 February 2023 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLÉMENT GASCON

DRAŽEN PETROVIĆ