

EIGHTY-EIGHTH SESSION

In re Dror (Nos. 1 and 2)

Judgment 1914

The Administrative Tribunal,

Considering the complaint filed by Mr David Mark Dror against the International Labour Organization (ILO) on 14 September 1998 and corrected on 22 October 1998, the ILO's reply of 25 January 1999, the complainant's rejoinder of 26 February and the Organization's surrejoinder of 31 May 1999;

Considering the second complaint filed by Mr Dror against the ILO on 23 April 1999 and corrected on 7 July, the Organization's reply of 16 August, the complainant's rejoinder of 17 September and the ILO's surrejoinder of 21 October 1999;

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

Having examined the written submissions and disallowed the complainant's application for hearings;

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

A. The complainant, an Israeli citizen who was born in 1943, joined the International Labour Office, the ILO's secretariat, in February 1982 at grade P.3.

On 31 May 1988 the position of Secretary of the Staff Health Insurance Fund (the Fund) of the ILO and the International Telecommunication Union (ITU) was put up for competition. The vacancy notice referred to Article 4.12 of the Regulations of the Fund. This Article, which concerns the Secretary of the Fund, reads in part:

"1. After consultation of the Management Committee and in agreement with the other executive head, either the Director-General of the ILO or the Secretary-General of the ITU shall appoint an official of his organisation to be Secretary of the Fund.

2. The Secretary shall be responsible for the current administration of the Fund in accordance with these Regulations and the administrative rules and subject to the general authority of and particular directives from the Management Committee and the Standing Subcommittee [of the Fund]."

The Management Committee is a joint body composed of representatives of the insured persons and representatives of the executive heads of the two organisations. It appoints the Standing Subcommittee, to which it may delegate certain aspects of the management of the Fund. Having won the competition, the complainant was appointed Secretary of the Fund and promoted to grade P.4 as from 1 September 1988. He was given an indefinite appointment as from 1 January 1989. His two performance reports covering the period from December 1987 to November 1991 were excellent. Those for the period from December 1991 to November 1997 were never completed. Following the reclassification of the post to grade P.5, the complainant was accordingly promoted as from 1 December 1993. As from 1994 he made it known to the Administration that he wished to be transferred and applied for several posts within and outside the ILO.

By a minute of 3 June 1996 that the complainant sent to his second-level supervisor, the Director of Personnel, he complained of the lack of resources allocated to the Fund. He received no response.

In 1996, relations between the Secretary and some members of the Management Committee, particularly the Chairperson, deteriorated. At a meeting of the Committee on 2 July 1996 the Secretary left the room after insulting the Chairperson. The Director of Personnel said that she would not take disciplinary action if he wrote a letter of apology, which he did. On 6 January 1997 she wrote a "note for the file" asking that a transfer within or outside the ILO be identified as soon as possible. In a communication of 14 February 1997 the complainant objected to the existence of this note and to the fact that it gave the impression that her

request for his transfer was linked to the incident.

Relations between the complainant and his first-level supervisor, the Chief of the Personnel Administration Branch (P/ADMIN) appointed in August 1996, had been difficult from the start. According to the complainant, she harassed him and failed to consult him or keep him informed of matters concerning the Fund, particularly a feasibility study on the rationalisation of the Fund. The Chief of P/ADMIN, for her part, found the complainant uncooperative.

At a meeting on 9 December 1996 with the Director of Personnel and the Chief of P/ADMIN, the complainant was told that a hidden video surveillance system had been installed in one of the Fund's offices following a complaint by one of the occupants. The complainant objected, among other reasons, because the office in question served as the reception counter for Fund members and was shared with another occupant who had not been told about the surveillance system. On 6 March 1997 the Director of Personnel met with the Fund's staff. She informed them that to her knowledge there were no cameras in place on the Fund premises and that, in general, if one were to be placed in an office, it would be a security measure taken with the knowledge and consent of the occupant. The complainant again objected to the surveillance system. In a minute of 18 March the Director of Personnel took him to task: at the meeting of 6 March he raised a confidential matter which she planned to deal with on a general level; moreover his manner had been aggressive. She added that she was concerned about the issue, that she would raise the matter with the Office of the Legal Adviser and would keep the complainant apprised of the advice and opinions she received. But despite a reminder he sent on 2 October 1997, the complainant received no information.

At a meeting on 22 January 1997 with the Director of Personnel and the Chiefs of P/ADMIN and the Personnel Planning and Career Development Branch (P/PLAN), the complainant learned that the position of Deputy Secretary, which had not been filled despite commitments made to the Management Committee in September 1994, was to be abolished and that the allocation of resources for the development of a health insurance information system - HIIS - would be suspended while waiting for the report on the rationalisation of the Fund. In a minute of 27 January the complainant pointed out that this would jeopardise the whole project and would, in any event, prevent the target date for start-up, set by the Management Committee, from being met. He proposed a meeting of all parties involved. He received no reply.

By a minute of 21 March 1997 the Chief of P/ADMIN asked all Fund staff to send her a description of their duties. In a minute of 24 March the complainant expressed surprise that she had not submitted this request through him or informed him in advance. Citing Article 4.12, paragraph 2, of the Regulations of the Fund, he asserted that she was intervening in matters that fell exclusively within his responsibility. He further observed that the Personnel Department already had the job descriptions and that the performance appraisals relating to his staff, which were up to date, also contained job descriptions.

In May 1997 the Management Advisory Services Unit (PROG/MAS) was asked to review the operations of the Fund's Secretariat. The resulting report, dated 27 June, recommended appointing someone to head the HIIS project; transferring the Fund's Secretariat to the Finance Department because the senior management of the Personnel Department was unable to devote "adequate time and attention" to it; revising internal budgeting arrangements for the Fund to protect it from the financial problems of the ILO; appointing a deputy secretary; and reorganising the work of claims processors.

On 20 May 1997 the Chief of P/ADMIN asked to receive regularly the outgoing correspondence of the Fund, including correspondence of a confidential nature. The complainant invoked the "principle of medical confidentiality" and sought the advice of the President and Vice-President of the Management Committee - who could not agree - as well as that of the legal advisers of the ILO and the ITU who recommended submitting the question to the Management Committee. In a minute of 25 September 1997, copies of which were sent to the Director of Personnel and all members of the Management Committee and placed in the complainant's personal file, the Chief of P/ADMIN took the complainant to task for refusing to cooperate and for invoking the authority of the Committee in order to withhold information from the Administration.

The complainant took sick leave from 23 June to 4 September, his doctor having diagnosed a depression due to overwork.

At a Committee meeting of 10 October, at which the complainant's transfer was discussed, the former Chief

of P/ADMIN, who had been assigned to other duties as from 1 October but was still a Committee member, informed the Committee that the administrations of the ILO and ITU intended to proceed with the transfer without delay. She also informed the Committee of the Director of Personnel's position as indicated in a minute addressed to the complainant on 3 October. The Director of Personnel did not question his technical capabilities but noted that in the past two years he had encountered difficulties in his relations with some members of the Committee. On several occasions she had encountered a negative and uncooperative attitude on his part and had concluded that he no longer had the confidence of the two administrations. It was, therefore, in the ILO's interests to transfer him without delay. The transfer would not be detrimental to his career and he would be temporarily transferred to a position in the Personnel Department. The complainant made a statement to the Committee to the effect that he had not asked to be "dismissed" from his duties and that the haste with which the matter had been submitted to the Committee had prevented him from putting his case properly and amounted to a hidden disciplinary sanction which was an affront to his dignity and his good name. He asked the Committee to defer its decision. The Chairperson proposed that the Committee continue the discussion without the Secretary, which it did after consulting the Deputy Legal Adviser of the ILO.

On the same day, 10 October 1997, the complainant replied to the minute of 3 October. He objected to the transfer, asserted that the criticism of his work should have been mentioned in his performance reports and that the Director of Personnel had no authority to sanction him. He suggested that "realistic alternatives" for his transfer should be discussed.

Assisted by a representative of the Staff Union, the complainant had several meetings with the Director of Personnel about a possible transfer. He refused to be transferred away from headquarters and named a number of positions he was interested in, particularly in the Social Security Department (SEC SOC). The Director of Personnel proposed putting him on special leave with pay for two to three months until a new position could be found. He replied that, without a guarantee that he would be transferred at the end of the leave, he was not interested.

By a minute of 28 October 1997 to the Director of Personnel, copies of which were sent to the executive heads of the ILO and the ITU, the members of the Committee and the Staff Union, the complainant said that he would regard a transfer as a covert disciplinary sanction. He nonetheless laid down conditions for the transfer should it take place. On 29 October the Director of Personnel informed him that "the Director-General, in agreement with the Secretary-General of the ITU, and after consulting the Management Committee of the Fund" had decided that the Committee would be assisted by an interim Secretary as from 3 November, that she would inform the Fund's participants in a way that would not adversely reflect on his competence and that she would consult him in this connection. He would be informed of his new assignment in a separate letter.

In a letter of 30 October the Chairperson of the Staff Union Committee told the Director of Personnel that he was concerned about the situation of the Secretary of the Fund and that he considered the matter to be "extremely serious".

By a minute of 31 October the Director of Personnel informed the complainant that he would be assigned to the Personnel Department until a position was found.

On 4 November the Director of Personnel gave the complainant the draft of a text officially announcing the change of Secretary. In a minute of 12 November 1997 the complainant objected to the draft. The announcement was finally published early in 1998 without any agreement on its content having been reached.

On 10 December 1997 the Director of Personnel told the complainant that the Director-General had decided to transfer him, as from 1 January 1998, to a P.4 position in SEC SOC. He would keep his P.5 grade.

On 20 April 1998 the complainant lodged an internal complaint under Article 13.2 of the Staff Regulations against the Director of Personnel's minute of 29 October 1997 informing him that he would be replaced and later transferred. In a minute of 11 May 1998 the Director of the Office of the Director-General replied that the Organization could not guarantee a reply within the prescribed time limit. By a further minute of 23 July he sent the complainant the comments made by the Director of Personnel and the former Chief of P/ADMIN

on the complainant's internal complaint, together with a preliminary analysis, asking for his observations. On 6 August the complainant asked the Director-General to send him a number of attachments mentioned in the three documents. On 14 September 1998 he filed a first complaint with the Tribunal against the implied rejection of his internal complaint.

By a letter of 25 January 1999 - the decision he impugns in his second complaint - the Director of the Office of the Director-General rejected the internal complaint on the latter's behalf.

B. The complainant submits in his first complaint to the Tribunal that the decision of 29 October 1997 is unlawful because he was not given a hearing or sufficient notice. Since it did not assign him to a new position the decision did not constitute a transfer but a "dismissal from his duties amounting ... to a covert disciplinary sanction".

He alleges bias on the part of his supervisors and contends that the impugned decision shows abuse of authority. According to him, the Organization allowed the Personnel Department to conduct a "war of attrition" against him and therefore owes him compensation for the injury caused. Moreover, it failed in its duty of respect towards him by handling the transfer in such a way that it was bound to be construed within the ILO as a repudiation of the quality of his work and competence.

The complainant asks the Tribunal to declare that the Organization treated him wrongly and acted in breach of his personal rights; to rule that the impugned decision is unlawful; to award him three years' pay in moral damages; to order the ILO to destroy any document concerning him which he has not initialled and which is not in his personal file; to state that his absence from work from 23 June to 4 September 1997 was due to service-incurred illness within the meaning of Article 8.3 of the Staff Regulations and award him all consequent redress; to order the ILO not to complete his performance reports for the period 1991-1997 without prejudice to his career; and to award him 50,000 Swiss francs in costs.

C. In its reply to the complainant's first complaint the Organization submits that his claims concerning the unlawfulness of the decision and wrongful treatment and his claim to moral damages are irreceivable because he did not wait for a final decision from the Director-General and so failed to exhaust his internal remedies. It contends that there was never an implied rejection, that the final decision was taken on 25 January 1999 within what it deems to be "an exceptionally short" period, and that by filing the complaint too early, the complainant "attempted to obstruct" the internal appeals procedure. As to his other claims, the Tribunal is not competent to entertain them and he has no cause of action.

In subsidiary pleas the ILO submits that the complaint is devoid of merit. Although the complainant was "undeniably a good manager", his relations with the administrations and some members of the Management Committee had deteriorated to such an extent that he had to be relieved of his duties as a matter of urgency. Furthermore, the substance of the complaint largely concerns "disputes between members of the Management Committee and [the complainant] in his capacity as Secretary" of the Fund and is therefore not within the Tribunal's competence.

D. In his rejoinder the complainant submits that the Organization's examination of his internal complaint was merely a "façade". There was therefore no valid reason not to observe the time limit for replies set in the Statute of the Tribunal, particularly as, in his view, the internal procedure afforded none of the safeguards of a proper process.

The complainant considers that he was only doing his duty "in defending the full and proper observance of the Regulations" of the Fund. Since no criticism had been made of his performance in appraisal reports, the ILO cannot now cite poor performance as an additional reason for the impugned decision. It consulted him and the Management Committee only about the practical aspects of the transfer and not the decision itself, which had been taken unilaterally long before.

E. In its surrejoinder the Organization presses its pleas on receivability. On the merits it submits that the issue of observance of the Fund's Regulations or interests is beyond the competence of the Tribunal. Although some of his performance reports were not completed, the complainant was warned several times that "his attitude was wanting". His supervisors will prepare the missing performance reports. The complainant failed to avail himself of the procedure for claiming compensation for service-incurred illness.

The amount he seeks in costs is disproportionately high.

F. In his second complaint, in which he impugns the Director-General's final decision of 25 January 1999, the complainant objects to the internal procedure of the ILO: the Director-General fails to observe time limits, particularly those set in the Statute of the Tribunal; he seldom consults the Joint Committee; the investigation of the case was not impartial because it was entrusted to the legal department, which is responsible for defending the Organization.

On the merits he asserts that the Organization has, "in effect, downgraded him": he is now on a P.4 position though he has held grade P.5 since 1993. He presses the pleas made in his first complaint. In rebuttal of the defendant's arguments in that complaint he denies that his conduct or his personality were in any way responsible for the deterioration in his relations with the Fund's organs and asserts that the Organization may, *ex officio*, declare an illness to be service-incurred when it has the necessary information, which it did. He asks to have the complaints joined and presses his claims.

G. In its reply to the second complaint the ILO asserts that the complainant's objections to the internal procedure are put forward in support of his first complaint, the procedure of which is already closed. However, subsidiarily it submits an additional brief in which it replies to his objections, stating that the final decision was notified within a reasonable period, that referral to the Joint Committee is discretionary and that the Office of the Legal Adviser examined the internal complaint objectively.

The Organization does not object to a joinder but maintains that the Tribunal is not competent to entertain the complainant's claims concerning the destruction of documents, the establishment of the performance reports and the occupational origin of his illness. It adds that for the first two claims he has no cause of action and that he has failed to exhaust his internal remedies for the third.

On the merits it submits that the decision of 29 October 1997, to transfer him, was at the discretion of the Director-General and shows no flaw. The complainant's attitude appeared unnecessarily contentious and it was in the interests of the department to transfer him in view of the prevailing tension. It denies that the decision was hasty or in breach of his right to a hearing. It contends that the complainant misunderstood his role and denies bias: on the contrary, the Administration was very understanding towards him. It adds that there was no reproof in the letter of 25 January 1999.

H. In his rejoinder the complainant states that he leaves it to the Tribunal to determine if his claims seek performance of obligations deriving from the Staff Regulations or his contract. If this is the case the Tribunal is competent to entertain them. He denies that the Director-General, exclusively, had the authority to transfer him. In his view, the discretionary power of the Director-General was extremely limited in this case by the requirements of Article 4.12 of the Regulations of the Fund. In view of the "tension and the conflicting views about the future of the Fund", the Director-General should have made sure that the transfer was consistent with all statutory requirements. He objects to the establishment *a posteriori* of his performance reports by supervisors who have since changed positions and who are directly involved in the present case.

I. In its surrejoinder the ILO repeats its objections to the receivability of certain claims. It asks the Tribunal to determine whether, in the light of Article 4.12 of the Regulations of the Fund, the Director-General has the authority to transfer an official assigned to the Fund. It observes that the complainant does not state how his transfer was inconsistent with the statutory requirements. According to the Organization, his conditions of employment were not governed by the Regulations of the Fund. In any event the Management Committee was consulted and confirmed that the transfer was warranted.

CONSIDERATIONS

1. The complainant filed a first complaint with the Tribunal on 14 September 1998 pursuant to Article VII(3) of the Tribunal's Statute, against what he considers to be the implied rejection of an internal complaint lodged on 20 April 1998 against his employer, the ILO.

The Organization asks the Tribunal to declare the complaint irreceivable on the grounds, amongst others, that the complainant had failed to exhaust his internal remedies.

On 25 January 1999 the complainant received the final decision of the Director-General of the ILO rejecting his internal complaint of 20 April 1998. He then filed a second complaint to the Tribunal on 23 April 1999 in which he maintained all the claims submitted in his first complaint and sought a joinder of the two complaints. The Organization having raised no objection, the Tribunal will join the complaints and need not, therefore, rule on the receivability of the first. Since the second complaint is receivable, subject to consideration 16 below, the Tribunal will examine the merits.

2. The gist of the case is as follows:

The complainant joined the ILO in 1982.

Following a competition and the Director-General's decisions of 31 August and 23 November 1988 the ILO:

- promoted him from grade P.3 to grade P.4 as from 1 September 1988;
- appointed him Secretary of the Staff Health Insurance Fund of the ILO and the ITU;
- gave him an indefinite contract as from 1 January 1989.

The Fund is separate from the ILO. For matters of policy and day-to-day management it is subject to the decisions of a Management Committee and its Standing Subcommittee, composed of members appointed by the executive heads of the ILO and the ITU and of members elected by the staff of the two organisations.

By a decision of 29 October 1997 the Director-General of the ILO relieved the complainant of his duties as Secretary of the Fund. On 20 April 1998 the complainant filed an internal complaint with the Director-General of the ILO under Article 13.2 of the ILO Staff Regulations.

Having received no reply to his internal complaint the complainant came to the Tribunal. He received the final decision negating his internal complaint on 25 January 1999, after which he filed a second complaint to the Tribunal. His claims are mentioned under B above.

3. The Tribunal notes that the complainant does not seek the quashing of the decision of 29 October 1997 because, he says, he does not wish to compromise his assignment to his present position or weaken the professional situation of his successor in the Fund's Secretariat.

However, he says he does intend to obtain redress for the injury he has suffered, which implies recognition of the unlawful nature of the decision. He therefore asks the Tribunal to rule that the Organization's "unwarranted treatment" of him was unlawful, "both as a prerequisite for contesting the validity of the decision of 29 October 1997, and as an element of redress".

He contends that that decision was unlawful in terms both of procedure and the regulations in force. He submits that this decision shows abuse of authority, that the Organization is largely responsible for the deterioration in the working relations between himself and the Personnel Department of the ILO and that it failed in its duty to treat staff members with dignity.

4. Before considering the pleas individually, it is necessary to note that the complainant is still on the staff of the ILO and is therefore subject to the provisions of the ILO Staff Regulations. The decision of 29 October 1997, regardless of whether it is construed as a dismissal from his duties or a transfer, was taken by the Director-General in accordance with the discretionary authority conferred on him by Article 1.9(a) of the Staff Regulations which allows him to assign any official to "his duties and to his duty station subject to the terms of his appointment, account being taken of his qualifications". Such decisions are subject only to very limited review by the Tribunal and the grounds on which they may be ruled unlawful are established by a long line of precedent. The Tribunal's power of review is all the more limited here because the evidence shows that the decision arose, not from the complainant's conduct, but rather the difficulties in his relations with the parties concerned.

In these circumstances, there is no need to dwell on his accusations against his supervisors since all parties acknowledge the deterioration in relations that prompted the decision.

On the unlawfulness of the decision

5. From the standpoint of procedure, the complainant points out that neither the ILO Staff Regulations nor the Regulations of the Fund contain provisions on the termination of duties of the Secretary of the Fund; consequently, where the Secretary is removed from office at his own request or at least with his consent, in keeping with the rule that similar acts require similar procedures, it may suffice to follow the procedure established for his appointment in Article 4.12, paragraph 1, of the Regulations of the Fund cited under A. However, where a decision is imposed by one of the organisations, respect for the staff member's rights requires compliance with additional and formally established rules that guarantee a fair process.

The complainant considers that, since there was no urgency, his right to a hearing and to adequate notice before the transfer should have been respected.

6. According to the complainant, in view of the particular nature of the Secretary's duties, the observance of his right to a hearing obviously required his being interviewed by the Director-General of the ILO (and possibly together with the Secretary-General of the ITU) before the decision was taken. But there was no such interview.

7. As to a staff member's right to a hearing before transfer, the Tribunal has held (in Judgments 631, *in re* Go, and 1496, *in re* Güsten) that:

"... whether or not there is a specific provision in the Staff Rules, as a matter of contractual obligation the Administration ought not to take a decision injuriously affecting a staff member's career without first, as a matter of natural justice, giving him the reasons for the decision and getting his response."

8. In alleging breach of that right the complainant seems to be objecting not so much that he was not given a hearing but that he was not heard by the right person.

The Tribunal considers that his demand for an interview with the Director-General himself is unwarranted, since the latter is not in a position to follow each and every decision throughout the process leading to its adoption.

The Organization did observe his right to a hearing. The evidence shows that the Director of Personnel, acting on the Director-General's behalf, remained in close consultation with the complainant throughout the process that led to the decision.

9. As to his right to proper notice, the complainant asserts that the decision of 29 October 1997 was notified to him on 30 October 1997 with the order to relinquish his post to an interim Secretary, though "nothing warranted so hasty a dismissal".

It is plain on the evidence, particularly the report of the Chairperson of the Management Committee, that relations between the complainant and most of the people responsible for managing the Fund had deteriorated to such an extent that it had become urgent to replace him in the interests of the proper administration of the Fund.

Furthermore, the complainant was told at least one month before the decision that he was to be relieved of his duties as Secretary of the Fund.

The plea therefore fails.

10. The complainant alleges that the Organization broke the material contractual and statutory rules: either the decision constituted a transfer, in which case the Organization should have notified him at the same time of his new assignment, or the Organization should have considered his case in the light of Articles 12.1 *et seq.* of the Staff Regulations or, by analogy, Article 6.11, and should have followed whichever of the two procedures applied.

It is plain on the evidence that the decision of 29 October cannot be examined in the light of the statutory provisions on disciplinary measures.

Therefore, what needs to be determined is whether the decision was consistent with the statutory requirements and contractual rules regarding transfers and, in particular, whether the ILO notified the complainant of his new assignment at the same time as it removed him from office as Secretary of the Fund.

Although the complainant was not informed of a new assignment before he was actually replaced, this was not the fault of the Organization. In fact he had refused temporary reassignment. The ILO had also explored with him several transfer possibilities well before 29 October 1997. He himself had been seeking transfer for some time and the Administration had already deemed one necessary following a serious incident in 1996. For different reasons the complainant refused all the positions offered to him except the one he now holds and which he seems satisfied with, since he has stated that he does not want to compromise the assignment to his present position.

The plea therefore fails.

On the abuse of authority

11. The complainant submits that the real reasons for the Director-General's decision to relieve him of his duties as Secretary of the Fund are not those that the Organization gave. He contends that the decision was taken because of widely diverging views about the future of the Fund and the best interests of its members; the decision was, therefore, not taken in the institution's interests, but arose from bias on the part of his supervisors, who, in the two years prior to his replacement, tried to "destabilise" him and "discredit" him in his capacity as Secretary.

The plea is unfounded. Nothing in the evidence suggests that the decision was taken on grounds other than the general interest of the Fund; and the complainant's assertions are belied by most members of the Management Committee, who considered that the purpose of the transfer was to ensure that the Fund continued to function properly.

The ILO's responsibility in the deterioration of working relations

12. The complainant submits that the Organization is largely responsible for the deterioration in his working relations with the Personnel Department. He contends that, according to the case law, when relations are difficult owing to professional disagreements it is the responsibility of senior management "to prevent conflictual situations from getting out of hand".

As the ILO rightly observes, the obligation to ensure that conflictual situations do not get out of hand presupposes that the organisation is in a position to do something about the cause of such situations. The Tribunal notes - and the parties do not deny - that the tense situation in the Fund was partly due to the complainant's attitude towards people and bodies he was called upon to work with. Since it was unable to find an immediate remedy to the gradual deterioration in working relations, the Organization took the decision, with the agreement of most members of the Management Committee and the management of ITU, to transfer the complainant in the interests of the proper administration of the Fund.

The plea is therefore unfounded.

On the Organization's failure in its duty to treat staff with dignity

13. The complainant alleges that the ILO failed to prevent the situation from deteriorating to the point where his health was affected following a depression caused by the tense relations with his supervisors and the psychological harassment to which he was subjected.

He submits that the defendant failed, as the situation required, to find a position that met his aspirations and to do its utmost to deal with the transfer in such a way as not to impair his professional dignity within the Organization.

But, in view of all the foregoing and all the evidence on file, the Tribunal considers that the Organization committed no breach of its duty to treat the complainant with dignity.

14. The decision shows no such flaw as to compromise its validity and there was nothing unlawful in the ILO's conduct, contrary to the assertion of the complainant, who fails to prove any breach of his personal rights. Consequently, no redress is due from the Organization. Since the complainant agreed to his new assignment, and stated that he did not wish to compromise it, he may not assert moral injury resulting from the grade attached to his new position, as his transfer involved no change in the grade he holds. His main claim therefore fails.

15. The complainant indicates that his other claims, too, are to be treated as elements of redress for the injury suffered, including the claim concerning his sick leave in the summer of 1997.

Since his main claim fails so, too, must the claims related to it.

16. As to his claims concerning the destruction of files and documents, the completion of his performance appraisal reports for the period from 1991 to 1997 and the attestation that the absence of such reports will not harm his career, the Tribunal considers that, in the absence of any actual cause of action, they must be rejected. So must his claim to recognition of his illness as service-incurred, because he has failed to exhaust the relevant statutory procedures.

DECISION

For the above reasons,

The complaints are dismissed.

In witness of this judgment, adopted on 17 November 1999, Mr Michel Gentot, President of the Tribunal, Mr Jean-François Egli, Judge, and Mr Seydou Ba, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 3 February 2000.

(Signed)

**Michel Gentot
Jean-François Egli
Seydou Ba**

Catherine Comtet