

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

T. (No. 4)

v.

IOM

134th Session

Judgment No. 4571

THE ADMINISTRATIVE TRIBUNAL,

Considering the fourth complaint filed by Ms C. T. against the International Organization for Migration (IOM) on 31 March 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. On 31 March 2022 the complainant, represented by her counsel, filed a fourth complaint against, as stated in the complaint form, a decision dated 28 February 2022. That decision was in an email sent to both the complainant and her counsel by the Chief of Staff of the Office of the Director General. By that email, he responded to a tenth Request for Review sent the day before against a failure to answer a claim for damages based on alleged negligence of the Organization contained in a letter of 28 October 2021. The Chief of Staff was of the opinion that there was an overlap with claims presented in other ongoing internal proceedings and he rejected the Request for Review.

2. Against this decision, the complainant, who was obviously not satisfied with the response, could have lodged an appeal with the Joint Administrative Review Board in accordance with Staff Rule 11.2.1. She has decided not to do so, but instead to file a complaint directly with the Tribunal.

3. Article VII, paragraph 1, of the Statute of the Tribunal provides that “[a] complaint shall not be 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”. It is firmly established in the case law that, in order to comply with that provision, the complainant must follow the available internal appeal procedures properly (see, for example, Judgments 3296, consideration 10, and 3749, consideration 2).

4. The Tribunal finds that the 28 February 2022 decision does not constitute a final decision for the purposes of Article VII, paragraph 1, of its Statute. As the complaint is not directed against a final decision, it 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 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