

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**G. (No. 2)**

**v.**

**UNWTO**

(Application for execution filed by the complainant)

**138th Session**

**Judgment No. 4872**

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for execution of Judgment 4577 filed by Ms A. G. on 13 March 2023, the World Tourism Organization (UNWTO)'s reply of 20 April 2023, Ms G.'s rejoinder of 18 May 2023, UNWTO's surrejoinder of 14 June 2023, Ms G.'s additional submissions of 27 June 2023 and UNWTO's final comments dated 25 July 2023;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the Statute of the Tribunal;

Having examined the written submissions;

**CONSIDERATIONS**

1. The complainant in the original proceedings, Ms G. has applied for the execution of Judgment 4577, delivered in public on 28 November 2022. This application is one of three concerning this judgment, another being an application for review by UNWTO and yet another being an application for interpretation by the Organization. Two other applications have also been made in relation to another judgment, Judgment 4456 delivered in public on 27 January 2022, linked to Judgment 4577, namely an application for review of Judgment 4456 by the Organization and an application for interpretation by the

Organization. While these applications are interconnected, it is convenient to deal with them separately in order to ensure there is no uncertainty or ambiguity concerning the consideration of the pleas and the implementation of the relevant principles in each application. No order of joinder should be made.

2. The orders made in Judgment 4577 were:

- “1. UNWTO shall pay the complainant 280,000 euros material damages within 30 days from the public delivery of this judgment.
2. All other claims are dismissed.”

3. The orders made in Judgment 4456 were:

- “1. The decision of 13 July 2018 to summarily dismiss the complainant and the decision of 28 October 2019 to dismiss her appeal are set aside.
2. In furtherance of what is said in consideration 20 above, the complainant shall deliver to UNWTO her claim for material damages, UNWTO shall reply within 60 days and within that period UNWTO shall pay to the complainant such sums, if any, it admits to be due. In the event that the complainant’s claim for material damages is not satisfied by this process, the parties are to forward to the Tribunal their respective documents to enable the Tribunal to finally determine and assess such material damages as may be payable.
3. UNWTO shall pay the complainant 50,000 euros moral damages.
4. UNWTO shall pay the complainant 8,000 euros costs.”

4. Consideration 20, referred to in the second order, said:

“20. In its pleas, UNWTO did not come to grips with any of the specifics of the complainant’s claims for material damages. The amounts are potentially significant. It is desirable the Tribunal has the benefit of as full an account from the complainant as possible of the amounts claimed and their justification, and submissions from the Organization responding, in detail, to each element of the claim for material damages and the quantification of the amount claimed. An order will be made to facilitate this process. However, the Tribunal should observe that the complainant may well have been found guilty of the misconduct alleged, even taking into account, in a fair and balanced way, the evidence of the former Secretary-General. That may have led to a sanction that had financial consequences for the complainant. It would be appropriate at the end of the day to discount material damages to which the complainant might be entitled for this possibility.”

5. In correspondence dated 31 May 2022 to the complainant, the Organization indicated that the Secretary-General had “decided to award the Complainant a sum corresponding to 3 months of her last emoluments, while rejecting all claimed material damages in excess of such amount” and indicating that this amount was being processed. Three points can be made about this intimation. The first is that, in point of time, it followed the delivery in public of Judgment 4456 on 27 January 2022. The second is that it is tolerably clear that this payment was to meet the terms of order 2 of that judgment, namely “UNWTO shall reply within 60 days [of the complainant’s claims for material damages] and within that period UNWTO shall pay to the complainant such sums, if any, it admits to be due”. The third is that having regard to the terms of the correspondence of 31 May 2022 together with the general context, in particular including the terms of order 2, the payment made was and was intended to be the payment of material damages. It would have been, and certainly should have been, understood by the complainant as such a payment, that is, material damages.

6. This leads to a consideration of the legal obligation imposed on the Organization by the first order made in Judgment 4577, which determined *inter alia* the material damages to be paid to the complainant pursuant to Judgment 4456. In terms, it simply required the payment of material damages in the specified sum within the specified period. At least in the atypical circumstances of these proceedings, that order should be understood as requiring the payment of material damages in the sum of 280,000 euros in aggregate. If, as was the fact, there had been at the time of the delivery of Judgment 4577, a part payment of material damages in the amount specified, the Organization’s obligation was to pay the residue. Thus, it was entitled to take account of the payment made in or about May 2022, in determining the amount required to be paid in full satisfaction of the order. The amount paid in or around May 2022 was 20,909.01 euros as material damages. The Organization was entitled to treat, as it has, this amount as partial satisfaction of its obligation to pay 280,000 euros as material damages. The basis on which this application for execution proceeds is misconceived.

Accordingly, the application should be dismissed. It is unnecessary to enter the debate about whether the 20,909.01 euros was correctly calculated. It was, in fact, paid.

DECISION

For the above reasons,

The application for execution is dismissed.

In witness of this judgment, adopted on 6 May 2024, Mr Michael F. Moore, Vice-President of the Tribunal, Sir Hugh A. Rawlins, Judge, and Ms Hongyu Shen, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 8 July 2024 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE

HUGH A. RAWLINS

HONGYU SHEN

MIRKA DREGER