

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**E. (No. 3)**

*v.*

**FAO**

(Application for execution)

**124th Session**

**Judgment No. 3826**

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for execution of Judgment 3593 filed by Mr A. E. on 29 March 2016, the reply of the Food and Agriculture Organization of the United Nations (FAO) of 23 June, the complainant's rejoinder of 16 August and the FAO's surrejoinder of 11 October 2016;

Considering Article II, paragraph 5, of the Statute of the Tribunal;  
Having examined the written submissions;

**CONSIDERATIONS**

1. On 3 February 2016, the Tribunal delivered in public Judgment 3593 on the complainant's first complaint and ruled that:

- “1. The impugned decision is set aside.
2. The FAO shall pay the complainant damages in the sum of 200,000 United States dollars.
3. It shall also pay him costs in the amount of 800 United States dollars.
4. All other claims are dismissed.
5. The application to intervene is dismissed.”

2. In the present application the complainant seeks the immediate execution of Judgment 3593; 50,000 United States dollars as additional damages from the FAO and an order that the FAO should pay him 5 per cent interest on the sums which he was awarded in Judgment 3593 with effect from 22 February 2016 until the date on which the sums awarded are deposited in his bank account.

3. The complainant states that on 8 February 2016 the FAO asked him to provide the particulars of the account into which he wished the sums awarded to be deposited. He provided the information to the FAO on 15 February 2016. His bank informed him that it would usually take a maximum of four days to transfer the money from Italy to his account. He checked his account several times up until 25 February 2016 and the money had not been deposited. On that date he so informed the FAO but received no response up to 29 March 2016 when he filed the present application for the execution of Judgment 3593.

4. The complainant's case is based primarily on what he contends was an unreasonable delay in the FAO's payment of the sums awarded to him in Judgment 3593. This will be considered below. However, the Tribunal finds no merit in his allegations that the delay was in retaliation against him because he caused certain corrupt practices within the FAO to be revealed in the judgment, nor in his further allegations that the FAO was motivated by malice and bad faith and that its actions in the matter were unethical and lacked transparency. The complainant has provided no evidence to support these allegations. As regards the alleged detriment which he suffered, the complainant states that by not transferring the money to his account in a reasonable time, the FAO "caused [him] several financial and commitment problems" as, among other things, he lost a good deal for the purchase of a house in Istanbul. The complainant indicates that he had already filed the application for execution when he found out, on 4 July 2016, that the sums had been paid into his account. This, he suggests, could have been avoided had the FAO responded to his communication of 25 February 2016.

5. According to the Tribunal's case law, at the stage of execution of a judgment by the parties, and likewise in the context of an application for execution, the judgment has *res judicata* authority and must be executed as ruled (see Judgment 3332, consideration 4). As a corollary of the *res judicata* authority, the Tribunal's judgments are immediately operative, and, for this reason, an international organization is bound to take whatever action a judgment may require (see Judgment 3152, consideration 11). As to the time within which a judgment is to be executed, the following was stated in Judgment 1812, consideration 4:

“[T]here is no single time limit for executing judgments. The Tribunal's practice is to let the organisation have a reasonable amount of time to act, and what is reasonable will depend, among other things, on the circumstances and the issues at stake. To be sure, the Tribunal has said more than once that any lump-sum award by the Tribunal is to be paid in 30 days: see Judgments 1620 [...] and 1748 [...]. That deadline holds good when the organisation may readily work out the amount due. But it does not when a case is sent back for a new decision: the time to be allowed will then turn on the peculiarities of the case.”

6. The records show that three days after Judgment 3593 was delivered in public, the FAO asked the complainant for the particulars of the bank account in which he wished it to deposit the funds which had been ordered by the Tribunal. The complainant responded providing the particulars one week later, on 15 February 2016. The FAO provides documentary evidence which shows that its internal processing procedures for payment were completed on 2 March 2016 and that on 3 March 2016 it instructed its bank to transfer the money to the complainant's account. This was 29 days after Judgment 3593 was delivered in public and within the time-frame which the Tribunal has suggested as a reasonable time in a case such as this. The records further show that, while the FAO's bank released the money for transfer to the complainant's account on the same 3 March 2016, the transfer was delayed because its corresponding bank in the United States of America requested further information about the complainant. This was done to comply with US anti-money laundering and counter-terrorism regulations. The FAO became aware of this on 10 March 2016. It supplied the information, and, according to the FAO, the sums awarded,

less 25 United States dollars, were deposited in the complainant's account on 15 March 2016.

7. Therefore, when the complainant filed his application for execution on 29 March 2016, the award made in Judgment 3593 had already been executed and the FAO had, in the Tribunal's view, done what was in its power to execute the judgment in a reasonable time. The delay after 3 March 2016 was occasioned by circumstances which were not within the control of the FAO. The complainant's statement that he did not become aware that the money was deposited in his account until 4 July 2016 because the FAO had not replied to his communication of 25 February 2016 does not obviate this. Neither is this obviated by the fact that the amount which was deposited in the complainant's account on 15 March 2016 was 25 United States dollars less than the sums awarded. This was for administrative costs. The Tribunal finds that the bank had ignored the instruction that these costs were to be borne by the FAO and deducted them from the sum which was to be transferred to the complainant. When the FAO discovered this, on 29 September 2016, it ordered the bank to pay 50.69 United States dollars into the complainant's account to cover the 25 United States dollars short-fall and 5 per cent interest in addition from the date when the original payment was deposited into the account on 15 March 2016. The FAO also included an additional 25 United States dollars in case the bank again ignored its instruction that the administrative costs were to be borne by it (the FAO). The complainant subsequently acknowledged receipt of this sum.

8. The Tribunal finds that Judgment 3593 was properly executed and the circumstances do not show that there was an unreasonable delay by the FAO. Accordingly, the complainant's application for execution must be dismissed.

#### DECISION

For the above reasons,  
The application for execution is dismissed.

In witness of this judgment, adopted on 12 May 2017, Mr Giuseppe Barbagallo, Vice-President of the Tribunal, Ms Dolores M. Hansen, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 28 June 2017.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

HUGH A. RAWLINS

DRAŽEN PETROVIĆ