

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

M.
v.
BIPM

134th Session

Judgment No. 4572

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr P. M. against the International Bureau of Weights and Measures (BIPM) on 11 September 2021 and corrected on 16 October 2021;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. At its 109th meeting, held in October 2020, the International Committee for Weights and Measures (CIPM) approved amendments to Title IV – concerning service and leave – of the Regulations, Rules and Instructions applicable to BIPM staff (Decision CIPM/109-14). The new version of these provisions came into force on 1 January 2021.

2. On 31 January 2021 the complainant submitted an ex-gratia request for rescission to the Director of the BIPM in which he described, inter alia, the moral injury caused to him by the entry into force of the new provisions, in that they involved, in his view, a significant alteration of the articles of the abovementioned Title IV and a degradation of his conditions of employment. Since the Director rejected this request, the

complainant brought the matter before the Appeals Committee. Referring to the Tribunal's case law, the Committee found that it had jurisdiction to deal only with an individual decision adversely affecting the official concerned and that the complainant's internal appeal was therefore irreceivable as far as the alleged moral injury was concerned. By a letter of 16 June 2021, which constitutes the impugned decision, the Director informed the complainant that he agreed with the Committee and that the complainant's appeal was therefore dismissed.

3. In his complaint of 11 September 2021, the complainant mainly requests that the Tribunal set aside the amendments to the abovementioned Title IV and also Decision CIPM/109-14, which formed the basis for these amendments. The Tribunal notes that this is a general decision that applies to all BIPM staff. However, it is settled case law that a complainant is not entitled to challenge directly general decisions such as this. As the Tribunal noted in Judgment 3736, consideration 3, a general decision that requires individual implementation cannot be impugned; the lawfulness of a general decision may only be challenged in the context of a challenge to the individual decisions that are taken on its basis (see Judgments 3628, consideration 4, and the case law cited therein, 4008, consideration 3, 4119, consideration 4, and 4278, consideration 2).

4. Although the complainant seeks to avoid the application of that case law by referring to two judgments which make an exception to it, namely Judgments 1451 and 1618, the approach adopted by those judgments cannot be transposed to the present case since they related to highly specific situations in which challenges to the general decisions at issue – a challenge to a provision providing for a transfer of jurisdiction from the Tribunal to a national court, in Judgment 1451, and a challenge by permanent officials to provisions allowing the recruitment of staff under fixed-term contracts, in Judgment 1618 – would not have been possible in the context of subsequent individual decisions taken.

5. Under the case law cited in consideration 3, above, the complaint is therefore clearly irreceivable insofar as it seeks the setting aside of the aforementioned general decision.

6. Subsidiarily, the complainant seeks the setting aside of the Appeals Committee's opinion that preceded the decision of 16 June 2021. That claim must also be rejected as clearly irreceivable because, according to established case law, such an opinion does not constitute an act adversely affecting the complainant and therefore cannot be appealed (see Judgment 4477, consideration 11, and the case law cited therein).

7. It follows that the complaint is clearly irreceivable and must be summarily dismissed in accordance with the procedure provided for 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 12 May 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 6 July 2022 by video recording posted on the Tribunal's Internet page.

(*Signed*)

PATRICK FRYDMAN JACQUES JAUMOTTE CLÉMENT GASCON

DRAŽEN PETROVIĆ