

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

T. (No. 2)

v.

IOM

134th Session

Judgment No. 4570

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Ms C. T. against the International Organization for Migration (IOM) on 21 December 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 of the complainant;

CONSIDERATIONS

1. On 1 November 2021 the complainant, through her counsel, requested the Director General to suspend the consideration by the Joint Administrative Review Board (JARB) of three internal appeals she had lodged, pending the Tribunal's determination on corresponding complaints filed directly with it. The Chief of Staff in the Office of the Director General, on behalf of the Director General, rejected that request on 5 November 2021, because he considered, in particular, that the complaints before the Tribunal are irreceivable since the internal remedies available within IOM were not exhausted prior to their being filed with the Tribunal. He stated that the JARB would proceed with its consideration of the three appeals. This is the decision impugned in the present proceedings.

2. The Chief of Staff simply confirmed what is required by the Statute of the Tribunal, which, in Article VII, paragraph 1, 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”. The decision is therefore obviously lawful.

3. In the request addressed to the Director General the complainant raised a number of issues related to the composition of the JARB. In substance, the complainant argues that the Administration as a whole has a conflict of interest in all internal appeals lodged by her. However, this type of argument can be invoked before the Tribunal only when challenging a final administrative decision. Indeed, a decision concerning the composition of an internal body is not a final administrative decision amenable to review by the Tribunal, but merely a step in the process leading to a final administrative decision. As such, it may be challenged before the Tribunal only in the context of a complaint impugning the decision to be taken at the end of the internal appeal procedure (see, for example, Judgments 4131, consideration 4, and 4297, consideration 7).

4. It follows that the complaint is clearly devoid of merit 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