

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

C.
v.
UNESCO

135th Session

Judgment No. 4645

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr A. C. against the United Nations Educational, Cultural and Scientific Organization (UNESCO) on 25 August 2021 and corrected on 21 June 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. In his complaint filed directly with the Tribunal, the complainant seeks to impugn a decision dated 6 July 2021 of which he was notified on 15 July 2021.

2. The complainant was recruited by UNESCO in March 2021 under a 12-month project appointment with a six-month probationary period. The “decision” of 6 July 2021 to which he refers is in fact a recommendation from his first-level supervisor, entered in his Probationary Performance Review on that date, not to confirm his appointment. The supervisor considered that the complainant’s performance did not meet expectations.

3. The supervisor's recommendation of 6 July 2021 is not an administrative decision, but merely a step in the process of evaluating the complainant's performance during his probationary period. As such, it cannot be regarded as a final decision for the purposes of Article VII, paragraph 1, of the Statute of the Tribunal, which 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".

4. The Tribunal notes that one of the supporting documents produced by the complainant is a letter of 15 July 2021 concerning the non-confirmation of his appointment and, in particular, the related administrative formalities to be completed. However, even if the complaint were regarded as being directed against that decision, it would still be irreceivable, as the non-confirmation decision must be challenged through the internal means of redress before it can be impugned in the Tribunal.

5. Since the complainant has not exhausted the internal remedies available to him, his complaint 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 18 November 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 1 February 2023 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

DRAŽEN PETROVIĆ