

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

L.
v.
WIPO

136th Session

Judgment No. 4734

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms T. L. against the World Intellectual Property Organization (WIPO) on 24 March 2023 and corrected on 18 April 2023;

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. On 25 October 2021, WIPO published Office Instruction No. 20/2021 setting out the new requirements to be met and the procedure to be followed in connection with the payment of a language allowance to staff members in the General Service category. This Office Instruction came into force on 1 January 2022.

2. At the material time, the complainant held a grade G-6 post and received an allowance of 399 Swiss francs per month for her proficiency in English and Spanish. On 27 December 2021, she filed a request for review of the “administrative decisions”^{*} contained in

^{*} Registry's translation.

Office Instruction No. 20/2021. She requested inter alia that several paragraphs of the Office Instruction should be revised on the ground that they “contain[ed] provisions that [were] not reflected in the Staff Regulations and Rules and affect[ed] the terms of employment of staff members in receipt of the language allowance”*. The Director General having rejected her request, she filed an appeal to the Appeal Board, which, in its report, concluded that the appeal was premature and therefore irreceivable since it was directed against a general decision which had no immediate and direct effect on the complainant. By a letter of 23 January 2023, the complainant was informed that the Director General endorsed the Board’s opinion and had decided to reject her appeal. That is the impugned decision.

3. In her complaint before the Tribunal, filed on 24 March 2023, the complainant seeks the setting aside of the “irreceivability decision pronounced by the Appeal Board and confirmed by the Director General”* and of the “administrative decisions”* contained in certain paragraphs of Office Instruction No. 20/2021.

4. The Tribunal notes that Office Instruction No. 20/2021 is a general decision which applies to all staff members in the General Service category. It is well established in the Tribunal’s case law that a complainant cannot directly challenge a decision of that type unless it requires no implementing decision and immediately and adversely affects individual rights (see, for example, Judgments 4430, consideration 14, and 3761, consideration 14). As the Tribunal recalled in Judgment 3736, consideration 3, a general decision that requires individual implementation cannot be impugned and the lawfulness of that general decision may only be challenged in the context of a challenge to the individual decisions that are taken on its basis (see also Judgments 4572, consideration 3, 4278, consideration 2, 4119, consideration 4, 4008, consideration 3, 3628, consideration 4, and the case law cited therein).

* Registry’s translation.

5. As the Appeal Board correctly notes in its report, the new provisions contained in Office Instruction No. 20/2021 have no immediate effect on the complainant's situation. The complainant will have the opportunity to challenge this general decision, if need be, in the context of a future challenge to the individual decisions that may be taken on its basis. Therefore, it was open to the Director General, in the impugned decision, to reject her appeal as premature in accordance with the opinion of the Appeal Board.

6. In light of the above, the complaint is clearly irreceivable and must therefore 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 2023, 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 7 July 2023 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLÉMENT GASCON

DRAŽEN PETROVIĆ