

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**B. (No. 3)**

**v.**

**UNESCO**

**139th Session**

**Judgment No. 4927**

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Ms E. B. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 15 February 2024 and corrected on 19 March 2024;

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. At the material time, the complainant was a UNESCO staff member serving as Conference Clerk, at grade G-5, in the International Centre for Theoretical Physics in Trieste, Italy, under a fixed-term appointment. On 10 February 2017, while she was on sick leave, she received an email informing her that her workload would be redistributed during her absence and that she would be reassigned other tasks upon her return. On 4 April 2017, she filed a protest against the 10 February email under paragraph 7(a) of the then applicable Statutes of the Appeals Board. She contended, among other things, that she had been penalized for being sick. Her protest was rejected by the Director-General on 15 June 2017 on the grounds that it concerned a managerial decision relating to the organization of work in case of absence of a

staff member and that the measures outlined in the 10 February email had been taken to improve the effectiveness of UNESCO, without prejudice to her sick leave entitlements. The complainant acknowledged receipt of the rejection of her protest on 22 June 2017.

On 4 September 2017, the complainant filed a notice of appeal with the Appeals Board. She submitted her detailed appeal on 26 September 2017.

2. The Appeals Board issued a report on 6 October 2023 dealing with this appeal and several other ones lodged by the complainant. With respect to the appeal of 4 September 2017, it recommended rejecting the appeal as irreceivable *ratione temporis*, as the notice of appeal was filed beyond the two-month time limit provided for under paragraph 7(c) of the then applicable Statutes of the Appeals Board, which began to run on 22 June 2017, when she was notified of the Director-General's decision of 15 June 2017. The Board further noted that the complainant did not submit any reason why she should have been granted an exception to the applicable time limit, nor did it find any such reason.

By a letter dated 16 November 2023, the complainant was informed that the Director-General had decided to endorse the Appeals Board's recommendation. That is the impugned decision.

3. The Tribunal entirely agrees with the findings and recommendation of the Appeals Board, which the Director-General followed in the impugned decision, and recalls that time limits are an objective matter of fact and strict adherence to them is necessary to ensure the stability of the parties' legal relations (see, for example, Judgments 4673, consideration 13, 4374, consideration 8, 4184, consideration 4, and the case law cited therein).

According to the Tribunal's well-established case law based on the provisions of Article VII, paragraph 1, of its Statute, the fact that an appeal lodged by a complainant was out of time renders her or his complaint irreceivable for failure to exhaust the internal means of redress, which cannot be deemed to have been exhausted unless recourse has been had to them in compliance with the formal

requirements and within the prescribed time limit (see Judgments 4811, consideration 7, 4655, consideration 20, 4160, consideration 13, and 4159, consideration 11, as well as, for example, Judgments 2888, consideration 9, 2326, consideration 6, and 2010, consideration 8). In the present case, the complainant's appeal of 4 September 2017 was not lodged within the applicable two-month time limit running from the date of notification of the 15 June 2017 decision rejecting her protest.

4. In her complaint, the complainant argues that her appeal was not time-barred as, on 22 June 2017, when she received the Director-General's decision of 15 June 2017, she had filed an "integrated protest" in which she had explained in detail the reasons supporting her "claim" and had provided evidence of the increased workload despite her medical situation. She alleges that she did not receive a response until 5 September 2017, that is, one day after she had filed her notice of appeal in which she indicated that she was bringing to the Appeals Board's attention both her protest of 4 April 2017 and her "integrated protest" of 22 June 2017. She contends that her appeal was directed against "the lack of response to her 22 June 2017 integrated protest (thus an implied rejection of her requests for review) in order not to lose her appeal rights".

The filing of the complainant's "integrated protest" of 22 June 2017 did not reopen the abovementioned time limit. The 15 June 2017 decision did constitute the "Director-General's ruling on the protest [of 4 April 2017]" within the meaning of paragraph 7(b) of those Statutes. Since the complainant received that decision on 22 June 2017, she should have filed her notice of appeal by 22 August 2017 at the latest. She did not, thereby rendering her appeal of 4 September 2017 time-barred.

5. It follows from the foregoing that 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 15 November 2024, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 6 February 2025 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

MIRKA DREGER