

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

T. (No. 3)

v.

Interpol

140th Session

Judgment No. 5018

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Ms V. T. against the International Criminal Police Organization (Interpol) on 26 October 2021 and corrected on 29 November 2021, Interpol's reply of 4 May 2022, the complainant's rejoinder of 23 September 2022, corrected on 4 October 2022, and Interpol's surrejoinder of 16 January 2023;

Considering the additional documents and information submitted by Interpol on 17 February 2025 in response to requests for further submissions from the President of the Tribunal;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

Considering that the facts of the case may be summed up as follows:

The complainant challenges her placement on compulsory leave.

Facts relevant to this dispute are to be found in Judgment 5017, also delivered this day, concerning the complainant's second complaint. Suffice it to recall here that on 1 March 2007 the complainant joined the Organization at its Headquarters in Lyon, France, as Assistant Director for the Human Resources Management Sub-Directorate, on a three-year fixed-term contract. Her appointment was confirmed in

February 2008 and converted to an indeterminate appointment in July 2009.

In late 2015, it was decided, as part of a restructuring and staff redeployment process, that human resources should become a directorate in its own right. Following studies carried out by the Organization and a group of experts and recommendations to this effect issued by the Strategic Management Board, the process of creating a Human Resources Directorate, headed by a Director, Ms C., who took up her duties on 14 August 2017, was implemented.

On 16 November 2017 the complainant submitted two complaints of moral harassment to the Secretary General against the Executive Director for Resource Management, Mr G.-K., and Ms C. On 12 December 2017 she submitted a claim to the Secretary General challenging what she regarded as a *de facto* termination of her appointment resulting from the “reclassification of [her] post, its advertisement and the appointment made at the end of that procedure, or the abolition of [her] post and the creation of the post of Human Resources Director and the appointment made to that post, or the removal of [her] duties or the essential substance thereof”*. Following the rejection of that claim, she lodged her first internal appeal, the outcome of which gave rise to her second complaint before the Tribunal.

On 16 January 2018 the complainant was informed of the Secretary General’s decision to appoint two investigators to look into her allegations of harassment and to assign her temporarily and with immediate effect to the post of Technical Advisor in the Project Management Office.

By a memorandum of 3 July 2018, the Secretary General notified her of his decision – taken following inquiries carried out between January and May 2018 – to dismiss her harassment complaints as unfounded, to end her temporary assignment to the Project Management Office and to place her on compulsory “paid additional leave” for a short period in accordance with paragraph 5 of Staff Rule 8.2.2 in order

* Registry’s translation.

to resume the consideration of the adjustment of her duties which had been interrupted in November 2017.

By a letter of 31 July 2018, the complainant was informed of several measures that had been or were to be taken in her regard, namely: (1) the abolition of the post she had held before the restructuring; (2) the steps that Interpol was going to take over a three-month period to try to reassign her to a vacant post corresponding to her qualifications and experience; (3) her temporary assignment to the Internal Oversight Sub-Directorate from 6 August 2018 and the extension of her paid leave for a further three days; (4) the possible measure of termination of appointment which could be taken by Interpol in the event of an unsuccessful reassignment procedure or the complainant's refusal to accept a post identified by the Organization; and (5) the settlement of her pension entitlements and the indemnities to be received on the termination of her appointment.

On 1 September 2018 the complainant lodged her second internal appeal challenging the decision of 3 July 2018 to reject her complaints of harassment and her placement on compulsory leave, a position which, in her view, was not a "lawful administrative position". She asked for these measures to be withdrawn, full redress for the injury she had allegedly suffered and an award of costs.

During its examination of the appeal, the Joint Appeals Committee – which had already received the complainant's first appeal lodged on 20 February 2018 against what she regarded as a deprivation of her duties amounting to a dismissal following the abovementioned restructuring – received three other appeals lodged by the complainant between 27 September 2018 and 17 April 2019, concerning respectively the decision to abolish her post of Assistant Director for the Human Resources Management Sub-Directorate, the rejection of the complaint of institutional harassment she had lodged on 31 October 2018 and the Secretary General's decision of 18 February 2019 terminating her appointment, which also concerned the settlement of her pension entitlements.

* Registry's translation.

Having noted the similarity of the issues involved, the Joint Appeals Committee decided to join the five appeals and alerted the Secretary General to the multiplication of “notices of challenge”^{*} and “protest”^{*} from claimants represented by the same counsel, which prevented it from working efficiently. The executive head reported these notices to the professional bodies to which the complainant’s counsel belonged.

In the single opinion it issued on 1 April 2021, the Committee stated that, regarding the rejection of the harassment complaints, the Organization had scrupulously complied with the applicable rules. As regards the complainant’s placement on compulsory leave, it noted that this was a measure to protect and preserve her rights, and not a disciplinary or persecutory measure. However, it expressed doubt about the need to continue the leave after the investigations had been completed and stated that there was a contradiction between the decision to place the complainant on leave and the decision to consider adjusting her duties. It recommended that the executive head enter into discussions with the complainant but reject her appeal.

By a letter of 28 July 2021 concerning the appeals dealt with by the Committee other than those relating to the three harassment complaints, the complainant was informed of the Secretary General’s decision to follow the Committee’s recommendation regarding her placement on compulsory leave and consequently to reject her appeal of 1 September 2018 on that specific point. That is the decision impugned in the present case.

The complainant asks the Tribunal to set aside the part of the impugned decision concerning her appeal of 1 September 2018, as well as the entirety of the initial decisions of 3 and 31 July 2018 placing her on compulsory leave. She seeks compensation for the moral injury she considers she has suffered, which she assesses as follows: at least 20,000 euros for the damage to her dignity and reputation, at least 15,000 euros for breach of due process, at least 30,000 euros for the

^{*} Registry’s translation.

“wrongful reporting of her [counsel]”*, and 23,000 euros for the length of the internal appeal procedure. Lastly, she claims costs in the amount of 8,000 euros.

Interpol asks the Tribunal to dismiss the complaint as unfounded.

CONSIDERATIONS

1. In her third complaint, the complainant impugns before the Tribunal the Secretary General’s decision of 28 July 2021 by which he informed her that he had decided to endorse the Joint Appeals Committee’s opinion of 1 April 2021 concerning her placement on compulsory “paid additional leave” and to reject her internal appeal of 1 September 2018 against the previous decision taken to that effect on 3 July 2018 and the decision of 31 July 2018 extending the leave until 6 August.

However, in the impugned decision, the Organization’s executive head stated that he disagreed with the Committee’s doubts as to the appropriateness of placing the complainant on “paid additional leave” at the time the measure was taken.

2. Interpol asks the Tribunal to consider the possibility of joining the present complaint with the seven other complaints filed by the complainant on 26 October 2021. However, as the Tribunal explained in considerations 5 to 7 of Judgment 5017, also delivered this day on the complainant’s second complaint, it is not appropriate to order that the present complaint be joined with any of the seven other complaints.

3. The complainant’s placement on compulsory paid leave that she challenges in the present complaint was decided by the Organization on 3 July 2018, when it notified her of its decision to dismiss as unfounded the two complaints of moral harassment lodged on 16 November 2017 against two of her superiors. On that occasion, the

* Registry’s translation.

Secretary General explained his position on her placement on leave in the following terms:

“As the procedure relating to these two [harassment] complaints is now closed, the Organization now intends to consider, as soon as possible, an adjustment of your duties or any organisational measure it deems fit, with due regard for your rights. From the notification of this memorandum and for the short period thereafter, you are placed on leave in accordance with Staff Rule 8.2.2(5). Your temporary assignment to the Project Management Office also ends this day.”*

Thus, according to Interpol, this placement was explained by the consideration it intended to give to an adjustment of the complainant’s duties or the adoption of any relevant organisational measure. Also according to the Organization, the basis for the decision to place the complainant on leave was paragraph 5 of Staff Rule 8.2.2, which provides as follows:

“For special reasons, paid additional leave days may be granted to an official at the discretion of the Secretary General.”

4. In its opinion of 1 April 2021, the Joint Appeals Committee expressed reservations about the reasons for this placement on compulsory leave, without however calling into question its legal basis. It raised doubts on account of the fact that “[t]his placement on additional leave, at the end of the process, [...] *de facto* [became] an obstacle to the ongoing crisis management procedure and to the genuine desire to do everything possible to keep the complainant in a contractual employment relationship with the Organization”*.

5. In the impugned decision, the Secretary General replied that, in his view, her placement on leave was justified for two reasons, which he set out as follows:

“10. The decision to place you on leave was not taken because your post had already been abolished, but because it enabled the [O]rganization to consider your situation and changes to your duties in connection with the restructuring of the Human Resources Management Directorate, since this could not be done before you lodged a complaint of harassment against your superiors in November 2017. Indeed, given

* Registry’s translation.

that it had been impossible to adjust your duties, which were under discussion with your two superiors before you lodged your [harassment] complaint in November 2017, it was necessary to consider changes to your duties before contemplating your return to the Directorate, which had continued to operate in your absence with a redistribution of the matters for which you were responsible.

11. The decision to place you on leave was also intended to prevent you returning to a directorate where you could suffer retaliation from the two officials against whom your allegations of harassment were directed. With this in mind, and in keeping with the Organization's duty of care towards you, I stated in my decision of 3 July 2018 that you were placed on leave.”*

6. Among the multiple pleas entered by the complainant in support of her complaint, there is one, alleging an error of law, that is decisive for the outcome of the present dispute. This plea relates to a misinterpretation of the terms of paragraph 5 of Staff Rule 8.2.2, which, in her view, did not authorise the Organization to place her on leave of its own accord, without a prior request from the complainant to that effect.

7. From this point of view, as this dispute revolves around the interpretation of a staff rule, it is appropriate to recall the essential rules of legal interpretation established by the Tribunal's case law. As the Tribunal recalled in Judgment 4796, consideration 3, according to these rules, “words are to be given their obvious and ordinary meaning and must be construed objectively in their context and in keeping with their purport and purpose (see, for example, Judgments 4639, consideration 3, 4506, consideration 5, 4066, consideration 7, 4031, consideration 5, and 3744, consideration 8)”.

8. In this regard, the Tribunal observes, firstly, that the wording of paragraph 5 suggests that the “paid additional leave” that may be granted under aforementioned Staff Rule 8.2.2 for “special” reasons usually follows a request by the staff member concerned, and not a decision by the Organization. Indeed, use of the words “may be

* Registry's translation.

granted” implies that a prior request has been made before such leave is granted.

Secondly, the Tribunal notes that paragraph 5 forms part of a list of additional days of leave introduced primarily for the benefit of staff members, and not in consideration of the Organization’s needs. The same applies to all provisions of Staff Rules 8.2.1 to 8.2.9, which implement Staff Regulation 8.2, entitled “Leave”, and refer to situations where staff members are entitled to leave (annual leave, leave for family reasons, leave for travel, leave for installation, sick leave, maternity leave, parental leave and unpaid leave).

Thirdly, the Tribunal notes that the context, purport and purpose of granting additional days of leave for special reasons do not indicate that such days of leave may be granted unilaterally by the Organization, without prior consultation with the staff member concerned, for the purpose of enabling the Organization, as it alleges in the present case, to conduct a further review to determine whether or not a post should be abolished.

9. The Tribunal considers that the Secretary General’s decision to place the complainant on compulsory leave on the basis of paragraph 5 of Staff Rule 8.2.2 reveals a misinterpretation of the meaning and effect of that provision. As the complainant rightly points out, this provision enables the Secretary General to grant a staff member’s request for additional leave, but it does not permit him or her to place a staff member on leave unilaterally, at his or her own discretion, when the person concerned has not so requested.

It should be added that, in the present case, the complainant was not consulted before the decision to place her on paid leave was imposed, nor was she even informed beforehand that this measure was being considered. Moreover, the file shows that on 3 July 2018 she was not given any explanation in this connection.

10. The Tribunal further observes that, in justification for the contested measure, the Secretary General explained in the impugned decision of 28 July 2021 that it had been impossible to adjust the

complainant's duties before she submitted her two complaints of moral harassment of 16 November 2017, and that changes to her duties needed to be considered before contemplating her return to the Human Resources Directorate, which had continued to operate with a redistribution of the matters for which she was responsible.

The need to redefine a post does not require its holder to be placed on leave during the redefinition process. Quite on the contrary, the complainant's presence at work and her consultation during the review of the situation in order to determine appropriate adjustments to her duties before a decision was taken militated in favour of her presence in the workplace, rather than her removal.

Moreover, in its written submissions, the Organization acknowledged that once the inquiries into the two complaints of moral harassment had been completed, the complainant's temporary assignment to the post of Technical Advisor in the Project Management Office was no longer justified. This resulted in the complainant's return to the Human Resources Directorate, to which she still belonged on 3 July 2018, particularly since she was to be involved in the exercise of redefining her duties, as had been indicated to her by the Secretary General in an earlier letter of 22 December 2017. Despite this, the Organization nonetheless argued in the same submissions that, in order to avoid creating uncomfortable situations or raising inappropriate expectations, it was preferable to keep the complainant away from the Human Resources.

The Tribunal finds this contradictory position unconvincing and cannot agree with the Organization's argument that placing the complainant on leave during this period was in her best interests or constituted a measure to protect her.

In Judgment 4231, considerations 13 and 14, in a case involving a provision similar to the disputed provision and concerning placement on special leave which constituted a privilege granted to staff members, the Tribunal pointed out that an international organisation commits an error of law and an abuse of authority if it unilaterally uses such a rule for a purpose extraneous thereto (see also to this effect Judgments 4819, consideration 9, and 3596, consideration 7).

11. The Tribunal further notes that, in the impugned decision, the Secretary General justified his earlier decision of 3 July 2018 to place the complainant on compulsory leave by explaining that her return to the Human Resources Directorate would expose her to possible retaliation from her superiors and the Organization was therefore required to protect her from this under its duty of care.

However, the Tribunal considers that this cannot constitute a valid reason for imposing leave on a staff member who has not requested it. In such a case, the Organization's duty of care required it rather to take the necessary measures to protect the staff member who had complained of harassment from potential retaliation by her or his alleged harassers, not by keeping her or him away from the workplace but by ensuring, for example, that these persons were made aware that such retaliation was prohibited.

In this regard, the Tribunal notes that, in its written submissions, the Organization insists that the complainant's removal from the superiors against whom she had lodged her two complaints of moral harassment was warranted in her best interests during the inquiry phase. This argument is irrelevant given that, by the time the complainant was placed on leave, these inquiries had been completed and the harassment complaints in question had already been decided.

12. It follows from the foregoing that the Secretary General's decision of 28 July 2021 and his earlier decisions of 3 and 31 July 2018, insofar as they relate to the complainant's placement on compulsory leave from 3 July to 6 August 2018, must be set aside, without there being any need to examine the complainant's other pleas.

13. With regard, firstly, to her claims for full compensation for the injury she considers she has suffered as a result of those unlawful decisions, the complainant seeks compensation for moral injury, which she assesses at a minimum of 20,000 euros for the damage to her dignity and reputation and at a minimum of 15,000 euros for the breach of her right to due process.

In view of the extremely short duration of the placement on compulsory leave, the lack of evidence for the alleged breaches of the complainant's rights and all the circumstances of the case, the Tribunal considers that the moral injury caused to the complainant will be fairly compensated by awarding her 5,000 euros under this head.

14. Next, as regards the length of the internal appeal procedure, for which the complainant claims moral damages in the amount of 23,000 euros, it is the Tribunal's settled case law that officials are entitled to have their appeals examined with the necessary speed, in particular having regard to the nature of the decision which they wish to challenge (see, for example, Judgments 4922, consideration 22, 4660, consideration 24, 4457, consideration 29, or 4063, consideration 14). Moreover, the unreasonableness of a delay in examining an internal appeal must be assessed in the light of the particular circumstances of the case and the amount of compensation liable to be granted under this head ordinarily depends on two considerations, namely the length of the delay and the effect of the delay on the employee concerned (see, for example, Judgments 4844, consideration 11, 4727, consideration 14, 4684, consideration 12, 4635, consideration 8, 4173, consideration 12, or 3160, consideration 17).

In the present case, while the time that has elapsed between the lodging of the internal appeal on 1 September 2018 and the adoption of the impugned decision on 28 July 2021 seems excessive in absolute terms, it should be noted that this delay occurred in specific and exceptional circumstances where the complainant lodged five consecutive internal appeals stemming from the same continuum of events, resulting in extensive exchanges of submissions that concluded in March 2020 and an examination by the Joint Appeals Committee that lasted several weeks. In addition, those submissions reveal a particularly acrimonious antagonism between the parties, which undoubtedly hindered the efficient and expeditious handling of the cases.

Furthermore, the Tribunal notes that, in view of the very limited consequences for the complainant of the delay in the internal appeal procedure, given the nature of the decision challenged in her third

complaint, the complainant has not established that she suffered any injury.

In the circumstances, the Tribunal considers that the delay in delivering the impugned decision of 28 July 2021 is not such as to warrant the award of compensation under this head in the context of the present complaint.

15. Lastly, the complainant claims moral damages of a minimum of 30,000 euros on account of what she describes as the Organization's "wrongful reporting of her lawyer"* to the professional bodies to which he belongs.

However, firstly, under its Statute, it is not within the competence of the Tribunal to determine whether reports made by an international organisation to the professional bodies to which a staff member's counsel belongs can be considered wrongful or unfounded. Moreover, the complainant's submissions in this regard focus mainly on the alleged validity of the statements made by her counsel, which the Organization criticised in those reports. The complainant plainly misunderstands the role of the Tribunal by dwelling unnecessarily on an argument of this type. The Tribunal further notes that the professional bodies did not take any action in response to Interpol's reports.

Secondly, the complainant's allegation that those reports hindered her right to an effective internal appeal is not established in the present case.

This additional claim for moral damages is therefore unfounded.

16. As she succeeds for the most part, the complainant is entitled to costs, which the Tribunal sets at the requested amount of 8,000 euros.

* Registry's translation.

DECISION

For the above reasons,

1. The decision of the Secretary General of Interpol of 28 July 2021 as well as the decisions of 3 and 31 July 2018 are set aside insofar as they concern the placement of the complainant on compulsory leave from 3 July to 6 August 2018.
2. Interpol shall pay the complainant moral damages of 5,000 euros.
3. It shall also pay her 8,000 euros in costs.
4. All other claims are dismissed.

In witness of this judgment, adopted on 19 May 2025, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, René M. Vargas M., Registrar.

Delivered on 3 July 2025 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLEMENT GASCON

RENÉ M. VARGAS M.