

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

T. (No. 6)

v.

Interpol

140th Session

Judgment No. 5021

THE ADMINISTRATIVE TRIBUNAL,

Considering the sixth 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 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 the settlement of her pension entitlements.

Some of the 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 2005 Interpol established an interim retirement plan that was independent from the host State (France), the rules for which were contained in Appendix 5 to the Staff Manual, designed in particular to improve the social security of specific staff members, expected to evolve into a permanent pension scheme applicable to everyone and intended to allow pension entitlements to be transferred between the national scheme and that of the Organization. Studies and discussions with the French authorities were subsequently carried out until 2015 to determine the terms of the transfer. In 2016 the General Assembly created the Interpol Pension Fund and adopted the rules of the permanent pension scheme, which was to enter into force “at the earliest on 1 January 2017 or, at the latest, on the date of entry into force of the Agreement between the Government of the French Republic and the Organization concerning the disaffiliation of the Organization’s officials performing their duties in Lyon”.

When she joined the Organization, the complainant was asked to make a choice concerning her pension entitlements: either she could participate in the French pension system to which Interpol was affiliated, or she could participate in the internal interim retirement plan established in 2005. She chose the second option, which provided in particular that, if she were to separate from service before the permanent scheme was established, the contributions that she and the Organization had paid into the interim retirement plan, including any interest generated by those contributions, would be returned to her.

On 2 November 2018 the complainant received notification of the Secretary General’s decision to terminate her appointment with immediate effect following the abolition of her post and the unsuccessful outcome of the reassignment procedure that had been conducted. She was informed that she was to receive six months’ notice, during which she was excused from performing her duties, and several termination indemnities. Since, at the time when her appointment was terminated, the permanent pension scheme was still not in force due to the lack of agreement between the Government of the French Republic

and the Organization, the complainant was also advised that, on the date of her separation from service, she would receive the final settlement of the sums due to her in respect of the French supplementary retirement pension and the Interpol interim retirement plan.

On 3 December 2018 she requested a review of the decision to terminate her appointment, “including the decision to settle [her] pension entitlements by paying [her] sums in respect of the interim retirement plan”*. She asked for those decisions to be withdrawn, full redress for the material and moral injury she considered she had suffered and an award of costs. As the request for review was rejected on 18 February 2019, she lodged an internal appeal against the latter decision on 17 April 2019. She asked for that decision to be withdrawn, her reinstatement, redress for the injury allegedly suffered and an award of costs.

The complainant left the Organization on 7 May 2019. On 25 June 2019 she received into her bank account the sum of 57,538.36 euros in respect of the supplementary retirement pension and the sum of 345,437.85 euros in respect of the interim retirement plan.

During its examination of the appeal, the Joint Appeals Committee – which had already received four other internal appeals, lodged respectively on 20 February 2018, 1 September 2018, 27 September 2018 and 26 February 2019, against what the complainant regarded as a deprivation of her duties comparable to a dismissal, the rejection of her complaints of harassment, her placement on compulsory leave, the decision to abolish her post, and the rejection of the complaint of institutional harassment that she had submitted on 31 October 2018 – noted the similarity between the issues raised and decided to join the five appeals.

In the single opinion it delivered on 1 April 2021, the Committee concluded that the Organization had complied with the applicable rules and recommended, in particular, that the complainant’s appeal against the decision to terminate her appointment and to settle her pension entitlements be rejected.

* Registry’s translation.

By a letter of 28 July 2021, concerning the appeals dealt with by the Committee other than those relating to the three complaints of harassment, the complainant was informed of the Secretary General's decision to follow this recommendation and consequently to reject her appeal of 17 April 2019. That is the decision impugned in the present case.

The complainant asks the Tribunal to set aside the part of the impugned decision relating to her appeal of 17 April 2019, as well as the initial decision of 2 November 2018 to settle her pension entitlements and the decision of 18 February 2019 rejecting her request for review. She claims full compensation for her injury. In this regard, she seeks compensation for the moral injury she considers she has suffered, which she estimates at a minimum of 40,000 euros, as well as compensation of 15,000 euros for the length of the internal appeal procedure, and an award of 8,000 euros in costs. With regard to the material injury suffered, she invites the Tribunal to "deliver a declaratory judgment conferring on [her] an entitlement [...] on the basis of which she will be able to receive [...] damages when injury arises"* . Lastly, she requests that the Organization be ordered to offer her the opportunity to participate in the permanent pension scheme if it enters into force before February 2028.

Interpol asks the Tribunal to dismiss the complaint as unfounded.

CONSIDERATIONS

1. In her sixth complaint, the complainant impugns the Secretary General's decision of 28 July 2021 by which he informed her that he had decided to follow the recommendation contained in the opinion of the Joint Appeals Committee of 1 April 2021 to reject her internal appeal of 17 April 2019 in its entirety, and to confirm his previous decisions of 2 November 2018 and 18 February 2019 concerning the settlement of her pension entitlements following the termination of her appointment.

* Registry's translation.

When her appointment was terminated, the complainant received a sum of 345,437.85 euros in settlement of her entitlements under Interpol's interim retirement plan to which she had belonged. She submits that the Organization broke its word and ignored the legitimate expectations arising from its promise to introduce a new permanent pension scheme. She therefore asserts her entitlement to participate in that new scheme.

2. The complainant essentially puts forward three pleas in support of her complaint. These pleas relate, firstly, to alleged breaches of the duty of good faith and mutual trust, secondly, to alleged errors as to her entitlement to participate in Interpol's permanent pension scheme and to an alleged breach of the principle of equal treatment, and, lastly, to several flaws allegedly committed in the internal appeal procedure.

In addition to the setting aside of the contested decisions, the complainant's claims concern, firstly, an award of compensation for the moral injury she considers she has suffered, totalling at least 55,000 euros and, secondly, delivery of a declaration in principle from the Tribunal as to her future entitlements under any permanent retirement scheme that the Organization might introduce before February 2028, given that the complainant will reach the age of 65 in January 2028.

3. 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.

4. As regards her first plea alleging "a breach of good faith and mutual trust"*², the complainant submits that she did not know when she was recruited what her pension entitlements would actually be and that she therefore trusted the Organization to establish as soon as possible the permanent pension scheme that had been announced. According to

* Registry's translation.

the complainant, it was only in 2016 that the permanent scheme was adopted, more than ten years after the interim plan was introduced and more than nine years after she took up her position, which was unreasonable for “such an essential condition of employment”*. She further submits that the Organization unjustifiably delayed the entry into force of the permanent scheme, which was still not in place in May 2019 when she left Interpol. She asserts that the Organization failed to keep her adequately informed of the state of progress regarding the entry into force. She adds that Interpol also neglected its duty to manage the Pension Fund’s assets properly so as to make a sufficient profit.

5. The Tribunal observes, firstly, that the complainant was invited to make a choice concerning her pension entitlements when she joined the Organization. She could choose between two systems, either the French pension system to which Interpol was affiliated, or the interim retirement plan created in 2005 and described in Appendix 5 to the Staff Manual. Rule A.5.2 of Appendix 5 stated, in particular, that once an internal permanent scheme had been established, participants in the interim pension plan would automatically participate therein, without specifying how soon a permanent scheme might be set up or what the process would be. By contrast, Rule A.5.4 and Rule A.5.5(1) expressly stated that if a staff member ceased service with the Organization before the permanent scheme was established, the contributions paid into the interim retirement plan (by the staff member and by the Organization, including any interest generated by those contributions) would simply be returned to the staff member. That is what happened in the present case.

It is clear from the file that, as the Joint Appeals Committee noted in its opinion, the complainant had voluntarily chosen to be affiliated to the Organization’s interim retirement plan when she was recruited and that the practical details applicable to that choice had been communicated to her.

* Registry’s translation.

Furthermore, the complainant's assertion that the administration failed to keep its promise to introduce a permanent pension scheme within a given period is not based on any evidence. Firstly, the Organization did not make a formal promise within the meaning of the Tribunal's case law (see, in particular, Judgments 4940, consideration 6, 4253, consideration 6, 3619, considerations 14 and 15, and 3148, consideration 7). Secondly, Staff Regulation 7.1(2)(a), which Interpol used in 2005 to create the interim retirement plan, clearly states that the Executive Committee may decide to establish compulsory or non-compulsory social security schemes, but there is no provision in the regulations requiring it to do so.

In its written submissions, the Organization states – without the complainant meaningfully challenging the substance of those explanations – that the retirement plan to which the complainant belonged was temporary and intended to improve the social security of staff members who were not French nationals and did not plan to retire in France. At the time it was set up, the interim plan was expected to evolve into a permanent scheme applicable to everyone following discussions to be held with the French authorities to that end. Contrary to what the complainant submits, the evidence in the file does not allow it to be considered that a promise was made that created a legal obligation for the Organization to honour it, in circumstances in which Interpol was unaware of the extent of the financial commitments regarding those future pension entitlements before the discussions with the French authorities took place and were concluded.

The complainant's objection based on the existence of an alleged promise by the Organization and a breach of her legitimate expectations arising from that alleged promise must be dismissed.

6. Secondly, the Tribunal finds that the complainant's criticism of the delay in introducing the permanent pension scheme is unfounded. It appears from the file that, in Resolution No. 13 (AG-2016-RES-13), the Interpol General Assembly approved the proposed amendments to the Staff Manual to create the permanent scheme, but explicitly decided that those amendments would not enter into force until "at the earliest

on 1 January 2017 or, at the latest, on the date of entry into force of the Agreement between the Government of the French Republic and the Organization concerning the disaffiliation of the Organization's officials performing their duties in Lyon". It should be emphasized that this scheme was not comparable to the 2005 interim plan which the complainant had joined. While the interim plan was a defined-contribution scheme, the future scheme was to be a defined-benefit scheme. The aim was not simply to transform the 2005 interim plan into a permanent scheme, but to change its inherent nature by providing that all staff members would henceforth be affiliated to a single independent defined-benefit scheme. This clearly required preparation, time and financial resources, as well as the conclusion of a series of agreements.

In these circumstances, the Tribunal considers that the Organization cannot be accused of a "wrongful failure to act"* as regards the delay in adopting the amendments envisaged to create the permanent pension scheme.

It follows that the complainant's second objection, relating to the delay in setting up the permanent pension scheme, must also be dismissed.

7. Thirdly, the Tribunal notes that, according to the terms of General Assembly Resolution No. 13, already cited in consideration 6, the permanent scheme was to enter into force "at the earliest on 1 January 2017 or, at the latest, on the date of entry into force of the Agreement between the Government of the French Republic and the Organization concerning the disaffiliation of the Organization's officials performing their duties in Lyon".

It is apparent from the evidence in file that the discussions conducted to this end were inconclusive, with the result that this new defined-benefit pension scheme never came into force. Thus, despite discussions with the Government of the French Republic, no agreement was reached. It appears that the financial terms of such an agreement, in particular as regards the possibility for each staff member concerned

* Registry's translation.

to request the transfer of entitlements acquired under the national scheme, could not be agreed. The Organization explains in this regard, once again without being meaningfully contradicted by the complainant, that due to reasons linked to its budgetary and financial situation, it was unable to pay the compensation required by the French authorities to authorise the transfer of pension entitlements from the French scheme to the Interpol pension scheme, even though that transfer was an essential condition for the financial sustainability of the new scheme.

Insofar as no agreement could be signed with France, the condition for the entry into force of a defined-benefit pension scheme was not met.

Beyond mere unsubstantiated assertions, the complainant does not establish how the Organization could be held to have committed a wrongful failure to act with regard to the non-fulfilment of that condition or the resultant delay or failure of the permanent scheme to enter into force.

As for the assertion that the Organization failed to inform the complainant in a timely manner about the situation and the entry into force, the Joint Appeals Committee rightly noted that, because of her post, the complainant was involved in the implementation of the Organization's social security scheme, which made the allegation of a lack of information on this subject all the more surprising.

The third objection, relating to the delay or failure of the permanent scheme to enter into force and the lack of information in this regard, has not been established.

8. Finally, the Tribunal considers that it cannot follow the complainant in her argument that the management of the interim retirement plan to which she belonged was deficient because her contributions had generated little or no income. In that regard, the Tribunal finds that it is insufficient to assert, as the complainant merely does, that it is not normal that the sum paid upon settlement of her pension entitlements was not substantially higher than the contributions accumulated and that those contributions ought to have generated a profit.

Those assertions are, in any event, not backed up by any documentary evidence or supporting figures and must be dismissed. The Tribunal specifies in this regard that it rejects the complainant's request for any studies carried out by Interpol and the investment policies drawn up to increase the Pension Fund's capital. This request amounts to a fishing expedition which, pursuant to the Tribunal's case law, is impermissible (see, for example, Judgments 4864, consideration 17, 4791, consideration 5, or 4617, consideration 6).

9. It follows from considerations 5 to 8 above that the first plea, alleging breaches of the duty of good faith and mutual trust, is entirely unfounded.

As regards the first plea, the Tribunal deems it necessary to add that the Organization is right to object to the use which the complainant has attempted to make of documents containing internal legal advice. These documents will therefore be disregarded.

10. In her second plea, the complainant considers that, as a former participant in the interim retirement plan, she is entitled to participate in the new scheme as soon as it is set up, even though she has separated from service. She submits that she should not suffer from the wrongful delay in the establishment of the permanent scheme for which the proposed amendments to the Staff Manual were adopted in 2016 and the impugned decision is hence tainted with an error of law. She adds in that regard that the previous Executive Director for Resource Management, against whom she submitted a complaint of moral harassment and who left Interpol shortly after that complaint had been examined, had himself persuaded the Organization to agree that he could participate in the new permanent pension scheme on its entry into force.

However, the Tribunal has already dismissed as unfounded the complainant's arguments regarding the delay in the establishment or entry into force of the permanent pension scheme. Moreover, since the scheme has never entered into force, the complainant cannot validly argue that she is entitled to participate in it. Lastly, although she submits

that there was an error of law in the impugned decision as regards the refusal to allow her to participate in the permanent scheme, the complainant does not specify the substance of that alleged error, and it is not for the Tribunal to speculate as to her exact allegations to this effect.

As regards the argument that the Organization breached the principle of equal treatment by not granting the same benefit to her as to the previous Executive Director for Resource Management, who, according to her, received a promise that he would be affiliated to the permanent pension scheme when it came into force, the Tribunal notes that this argument is not supported by any *prima facie* evidence. Moreover, since the submissions clearly establish that the scheme never came into force, any argument that an official of Interpol could have benefited from it in any way is purely hypothetical. This argument will therefore be dismissed, without there being any need to grant the complainant's request for the production of documents in this respect.

The second plea is unfounded.

11. As regards the third plea, alleging several flaws affecting the internal appeal procedure, the complainant calls into question, as she did in her second complaint, compliance with the time limit of ten working days within which the Secretary General must refer the matter to the Joint Appeals Committee. She also submits that the composition of the Committee was flawed, that the joinder of her internal appeals was unlawful, that procedural shortcomings affected her right to an effective internal appeal and that the Committee failed to observe the requirement of transparency and impartiality.

However, as the Tribunal has already explained in consideration 13 of aforementioned Judgment 5017, none of these objections can be upheld. Apart from being unsubstantiated, they do not, in the present case, constitute defects such as to render the internal appeal procedure unlawful.

It follows that the third plea is also unfounded.

12. As regards the complainant's claim for compensation for the moral injury allegedly suffered, there are no grounds for it to be granted. As the complainant's pleas are unfounded, the claims for compensation for the injury she allegedly suffered must also be dismissed.

13. As regards the length of the internal appeal procedure, for which the complainant claims moral damages of 15,000 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 17 April 2019 and the adoption of the impugned decision on 28 July 2021 seems excessive in absolute terms, the Tribunal recalls that, as it observed in Judgment 5018, also delivered this day on the complainant's third complaint, that this delay occurred in specific and exceptional circumstances where the complainant submitted five consecutive internal appeals stemming from the same continuum of events, resulting in extensive written 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.

Moreover, since the permanent pension scheme in which the complainant claims she is entitled to participate never entered into force in any event, the Tribunal finds that the length of the internal appeal procedure was not such as to cause her any particular injury.

In these circumstances, the Tribunal considers that the time taken to deliver 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.

14. Lastly, the complainant's request that the Tribunal "deliver a declaratory judgment conferring on [her] an entitlement [...] on the basis of which she will be able to receive [...] damages when injury arises"* must be dismissed. It is settled case law that it is not for the Tribunal to issue declarations of law of this kind in any event (see, in this respect, Judgments 4700, consideration 2, 4637, consideration 6, 4492, consideration 8, 4246, consideration 11, 4244, consideration 8, 4243, consideration 27, and 3876, consideration 2).

15. It follows from all the foregoing that the complaint must be dismissed in its entirety.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 20 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.

* Registry's translation.

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.