

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

S. (No. 4)

v.

WHO

140th Session

Judgment No. 5028

THE ADMINISTRATIVE TRIBUNAL,

Considering the fourth complaint filed by Ms A. S. against the World Health Organization (WHO) on 13 December 2023;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Articles 6 and 7 of its Rules, as well as Annex 1 to those Rules;

Having examined the written submissions of the complainant;

CONSIDERATIONS

1. On 13 December 2023, the complainant's counsel sent an email to the Registry of the Tribunal containing a complaint form and various annexes pertaining to her client's fourth complaint against WHO, concerning the decision to dismiss the complainant for misconduct. Invoking the complexity of the case and the volume of the submissions produced during the internal proceedings, she requested permission to file a brief exceeding the 25-page limit provided for in Annex 1 to the Rules of the Tribunal. The President of the Tribunal agreed to extend the page limit to a maximum of 35 pages and counsel was instructed to correct the complaint, in accordance with Article 6, paragraph 2, of the Rules, by providing the original copy of her power of attorney, a complaint brief and five printed copies of all her submissions within a period of 30 days, that is, by 9 February 2024.

2. On 8 February 2024, counsel requested a two-month extension of the time limit to correct the complaint, in view of her “exceptionally high workload”. That same day, the Registrar informed counsel that the President had accepted this request and that the time limit was therefore extended until 9 April 2024.

3. On 7 April 2024 (a Sunday), counsel sent an email to the Registry requesting an additional one-month extension of the time limit to correct the complaint, which was due to expire the following Tuesday. In support of this request, she explained that, “[d]ue to the Easter break and [her] client’s absence abroad, and [her] own traveling abroad”, it was “not possible for [her] to discuss and finalize the [complaint brief] with [her] client before the deadline”. On 9 April 2024, the Registrar informed counsel that this request had been accepted by the President, and that the time limit was now set at 9 May 2024, but that no further extension would be granted thereafter, as she had already been allowed additional time to correct the complaint.

4. On 2 May 2024, counsel requested a further extension of the time limit, “until at least 16 May 2024”, on the grounds that she had been unable to work for a week due to her son’s illness. She provided a medical certificate attesting to the fact that it would be necessary for her to be absent from work in order to care for her son from 29 April 2024 to 5 May 2024. Counsel was informed on 7 May 2024 that, in view of the circumstances mentioned in her request, the President had exceptionally decided to extend the time limit until 10 May 2024.

5. On 10 May 2024, counsel filed, in electronic form, a 144-page complaint brief with 93 annexes. She explained that her submissions were “particularly voluminous [...] due to the fact that [the complainant]’s dismissal [was] a consequence of her whistleblowing, which [they] ha[d] explained in detail, in addition to summarizing the overwhelming evidence, the numerous procedural errors made in the framework of investigations, disciplinary proceedings and appeal proceedings, and the rebuttal of the various false allegations of misconduct brought

against [the complainant]”. Counsel again requested that the page limit for the complaint brief be waived.

6. On 14 May 2024, the Registrar acknowledged receipt of these submissions and pointed out to the complainant’s counsel that her brief did not respect the decision of the President authorising a maximum of 35 pages. The Registrar therefore asked counsel to provide a brief of not more than 35 pages within seven days, that is to say, by 21 May 2024.

7. On 21 May 2024, counsel wrote to the Registrar at around 4.30 p.m. indicating that she would be submitting a complaint brief later that evening which would exceed the authorised page limit, as “it [was] impossible to set out all the relevant facts and arguments in just 35 pages”. In the event that this brief was not accepted by the Tribunal, she requested that one of the annexes to the complaint, containing the complainant’s rebuttal of the allegations of misconduct brought against her, be treated as an integral part of her pleadings before the Tribunal, in which case counsel requested an additional period of seven days “to down-size the complaint brief”. At around 11.50 p.m., counsel sent an email containing a 106-page complaint brief.

8. By an email of 30 May 2024, the Registry informed counsel that her 106-page brief could not be accepted, but that the President had agreed, on a strictly exceptional basis, to extend the page limit to a maximum of 45 pages. Counsel was also informed that the facts of the case and the complainant’s pleas had to be stated in the brief itself, as required by Article 6, paragraph 1(b), of the Rules of the Tribunal, and not in other documents presented as annexes to the complaint. The President granted her an additional period of seven days, until 6 June 2024, to submit the corrected brief. In this email of 30 May 2024, the Registry made it clear to the complainant’s counsel that “no further extension of the time limit or of the page limit w[ould] be granted” and that “[f]ailure to comply with these mandatory requirements would lead the Tribunal to dismiss [her] client’s complaint as irreceivable”.

9. On 6 June 2024, at around 3 p.m., counsel requested a two-week extension of the time limit on the grounds that the complainant was on sick leave and was “unable to take the required action, including to sit down with [her] to make the necessary adjustments”. Later that day, at around midnight, which was the deadline for correcting the complaint, she sent another email, attaching a new version of the complaint brief, which ran to 69 pages – thus still exceeding the 45-page maximum allowed by the President after two exceptional extensions. Counsel reiterated her request for an extension of the time limit. This request was rejected by the President, who considered that the complainant’s sick leave was not a legitimate reason to grant a further extension, since the responsibility for filing the complaint in compliance with the allocated deadline and page limit lay exclusively with the counsel representing her before the Tribunal.

Counsel subsequently asserted, in a letter dated 14 June 2024, that the provisions of the Swiss Code of Deontology obliged her to obtain instructions from her client with respect to the correction of the complaint. However, this argument is, in any event, of no avail, since the medical certificate counsel provided indicates that the complainant’s illness began on 5 June 2024, that is, on the eve of the deadline, and she therefore had ample time to consult her client, if she considered it necessary to do so, before the onset of the latter’s illness.

10. The sequence of events recalled above shows that, despite the numerous time limit extensions that were exceptionally granted to her by the President, the complainant’s counsel failed to correct the complaint in accordance with the clear instructions given to her by the Registry. The legal consequence of that failure is that the complaint, which does not meet the requirements of Article 6 of the Rules of the Tribunal and Annex 1 to those Rules, is clearly irreceivable and must be summarily dismissed in accordance with the procedure set out in Article 7 of those same Rules (see, for example, Judgments 3716, consideration 4, 3710, consideration 3, and 3632, consideration 4).

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 30 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.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

RENÉ M. VARGAS M.