

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**R. (No. 3)**

**v.**

**UNESCO**

**140th Session**

**Judgment No. 5052**

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Mr B. R. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 21 September 2023, UNESCO's reply of 6 February 2024, the complainant's rejoinder of 20 March 2024 and UNESCO's surrejoinder of 19 June 2024;

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 decision to reject his request for the deferment of his reassignment in the 2019 managed geographical mobility exercise.

The complainant had been a staff member of UNESCO at the Organization's Headquarters since 1 August 1992. He was reappointed several times, latterly on fixed-term contracts, and successively promoted until reaching grade P-5 with effect from 14 March 2008 within the Communication and Information Sector (CI) in the Knowledge Societies Division as Chief of the Section for Universal Access and Preservation, a role he held until shortly before his summary dismissal for disciplinary reasons, decided on 25 March 2020.

On 18 June 2018 the Director of the Bureau of Human Resources Management (DIR/HRM) notified the complainant of the Director-General's intention, having noted that he had served continuously at Headquarters for nearly 26 years, to transfer him to a field post, and mentioned three proposed geographical postings: Head of Office and UNESCO Representative in Tashkent, Uzbekistan (P-5); Head of Office and UNESCO Representative in Port-au-Prince, Haiti (P-5); or Head of Office and UNESCO Representative in Brazzaville, Republic of Congo (P-5).

On 3 July 2018 the complainant replied that he was "definitely"\* interested in such a transfer but only "at the end of this biennium"\* finishing at the end of 2019, because of both his professional responsibilities in his department and his family duties, the latter concerning mainly the custody of his minor daughter, born on 8 April 2003, granted by his decree of divorce.

On 17 July 2018 DIR/HRM informed the complainant that the Director-General was opposed to a transfer at the end of the biennium, although she was aware of the impact of the transfer on the continuity of programme management by the complainant's department, and invited him to provide clarifications concerning his daughter's custody, asking him to choose a transfer destination from the three options previously presented. On 3 August 2018 the complainant, while confirming his agreement to a transfer to a field post "within a reasonable timeframe"\*, stated that, owing to the division of parental rights between both parents under the decree of divorce, he was required, in addition to paying child support, to have his second, minor daughter to stay with him for two weekends a month and one month in the summer, which was why he wished to wait until the end of the biennium to be transferred. He also emphasised the provision contained in paragraph 16 of Item 5.10 of the Human Resources Manual (hereinafter "the HR Manual") that was applicable at the time, stating that a request for a waiver based on personal/family issues related to the staff member and/or his/her dependants could be submitted in writing to the Director-

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\* Registry's translation.

General via DIR/HRM. He also pointed out that, contrary to the provisions of Item 5.9 of the HR Manual, his supervisor had not been consulted as part of the transfer procedure. Lastly, he added, for all relevant purposes, that a transfer process should be carried out within a timeframe agreed with the staff member concerned and that, if a transfer were ultimately decided in his case, he expressed a preference for “Haiti or Tashkent”\*, subject to the various observations he had made.

Following a request for supporting documents from DIR/HRM on 9 August 2018, the complainant explained on 5 September that a copy of the decree of divorce had already been provided to the Bureau of Human Resources Management in 2007.

After these exchanges, it appears that UNESCO did not in the end carry out the complainant’s envisaged transfer in 2018.

On 7 December 2018, as part of the introduction of a new mobility policy, Administrative Circular AC/HR/65 was published, amending, in particular, the provisions on geographical mobility exercises contained in Item 5.10 of the HR Manual by providing, inter alia, in paragraph 53, for the possibility of deferring a reassignment on personal grounds for a defined period not exceeding two years.

On 25 February 2019 the complainant was informed of his inclusion in the 2019 managed geographical mobility exercise as follows: “[Following the] launch of the Managed Mobility Programme (Circular ACHR65), I wish to inform you that your post will be included in the 2019 mobility exercise and will form part of the pool of posts advertised for the current mobility cycle. Accordingly, as part of this mobility exercise, you will shortly be invited to consult the vacancies online and to apply for a maximum of three posts at the same grade as yours, which you consider match your skills and experience as well as your career aspirations.”\*

On 15 March 2019 the complainant requested that his reassignment be deferred for personal reasons, mentioning the custody of his daughter and relying on the amended version of paragraph 54(c) of Item 5.10 of the HR Manual, which provided for a possible deferment when the

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\* Registry’s translation.

“staff member ha[d] a child that [was] within 2 years of graduating from high school in the current duty station”.

On 5 April 2019 the complainant was informed that his request for deferment had been refused. He also received confirmation that he would therefore be kept in the “mobility pool”\*, that his post in the CI Sector would be included in the pool of vacancies in this mobility exercise and that he would be invited very shortly to consult the vacancies online and to express his interest in them.

Following the complainant’s request sent on 9 April 2019 for an explanation of the reasons for this refusal, DIR/HRM explained on 18 April that the decision had been taken in the light of all the elements presented and that the complainant’s wish not to be transferred to a field office until the end of 2019 would be taken into account in determining the timing of any reassignment.

When the complainant again requested clarification by email of 26 April 2019, he was told on the same day that “the criteria [had been applied] consistently to all staff members”, that his “request for [...] deferment was different from others who were granted a deferment [...] as [his] child [did] not live with [him]” and that his “potential mobility move [would] not disrupt [his] child’s study”, which was “the rationale for granting such deferment”.

On 6 May 2019 DIR/HRM confirmed to the complainant that the deferment would not be granted and asked him to express a view on the various posts included in the mobility exercise. It appears from the parties’ submissions that the complainant does not seem to have responded to this request.

On 14 May 2019 the complainant lodged a protest with the Director-General against the decision of 18 April 2019 to reject his request for the deferment of his reassignment in the 2019 mobility exercise, which he considered unfounded and discriminatory. As he did not receive a reply, he lodged a notice of appeal on 19 June 2019 against the implied

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\* Registry’s translation.

decision to reject his protest and submitted his detailed appeal to the Appeals Board on 11 July 2019.

On 10 July 2019 the complainant was notified, by an email from the Mobility Team acting on behalf of DIR/HRM, of the Director-General's decision to reassign him to the post of Head of Office in Brazzaville and UNESCO Representative in the Republic of Congo, with a start date of 1 October 2019 at the latest. That decision is the subject of the complainant's second complaint to the Tribunal, ruled on in Judgment 5053, also delivered this day.

In its opinion (CAP/490) issued on 27 March 2023, the Appeals Board, after hearing the complainant on 2 February 2023, recommended that the appeal against the decision of 18 April 2019 rejecting the complainant's request for a deferment of his reassignment be dismissed, concluding that, although the complainant fulfilled the condition for a deferment set out in paragraph 54(c) of Item 5.10 of the HR Manual in that he requested a deferment due to the imminent end of his daughter's secondary education, the Director-General could legitimately refuse him a second successive deferment of his reassignment, in view of the Administration's "discretionary power"<sup>\*</sup>. Recalling that its review of this discretionary power could only be exercised "in exceptional cases involving omission of material facts[,] errors or abuses"<sup>\*</sup>, the Appeals Board stated that these conditions did not appear to have been met in this case. However, the Board recommended that the Organization show goodwill to the complainant by treating him on an equal footing with his colleagues in the same situation.

On 26 June 2023 the complainant was informed of the Director-General's decision to follow the recommendations of the Appeals Board and to reject his appeal against the decision of 18 April 2019. That is the impugned decision.

The complainant asks the Tribunal to set aside the decision to reject his request for deferment of his reassignment. At the same time, he claims fair compensation for the "professional, personal, psychological,

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<sup>\*</sup> Registry's translation.

moral, physical, financial and intellectual”<sup>\*</sup> injury suffered as a result of the various decisions he challenges before the Tribunal, which he sets at 100,000 euros for moral injury and 100,000 euros for injuries under other heads. He also requests a finding that the delay in dealing with his internal appeal was unreasonable and liable to cause him injury. He therefore claims fair compensation for the moral injury suffered as a result of this delay, as well as punitive damages for the Organization’s conduct and an order that the Organization pay the costs of the five procedures that he was forced to bring before the Tribunal.

UNESCO asks the Tribunal to dismiss the complaint as unfounded.

#### CONSIDERATIONS

1. The complainant requests the setting aside of the Director-General’s decision of 26 June 2023 confirming the decision to reject his request for deferment of his reassignment, submitted on 15 March 2019.

2. In four other complaints filed with the Tribunal, the complainant also seeks the setting aside of the decisions to reassign him geographically, to refuse to reinstate him at Headquarters and to dismiss him without notice, as well as an acknowledgement that he was subjected to harassment.

Since he considers that these various decisions are interdependent and that the question of their legality is directly linked to the unlawfulness, whether recognised or not, of the decision refusing to grant his request for a deferment of his reassignment in the 2019 managed geographical mobility exercise, the complainant requests, with reference to Judgment 4501, consideration 5, that these various complaints be joined.

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<sup>\*</sup> Registry’s translation.

However, the Tribunal recalls its case law that the touchstone for formal joinder has generally been that the complaints involve the same or similar questions of law or fact, and it is not sufficient that they stem from the same continuum of events (see Judgment 4753, consideration 6).

In the present case, given that the four complaints seek to challenge several distinct decisions, that they were dealt with in different internal procedures resulting in separate opinions of the Appeals Board and different final decisions of the Director-General, and that each complaint raises specific issues and pleas, the Tribunal considers that it is appropriate not to grant this request for joinder in the present complaint. It is irrelevant in this respect that the Tribunal granted the Organization's request for permission to file a joint reply in these various cases.

Accordingly, the five abovementioned complaints will not be joined.

3. In this case, the relevant provisions applicable to a request for deferment of reassignment in the 2019 annual managed geographical mobility exercise stated as follows in the version applicable from 7 December 2018:

- under Staff Regulation 1.2, “[s]taff members are subject to the authority of the Director-General, and to assignment by him or her, with due regard to their qualifications and experience, to any post in the Organization”;
- similarly, Item 5.10 of the HR Manual provided as follows:
  - “**A. Geographical Mobility**
  - [...]
  - Legal Framework**
  - [...]
  - 3. In accepting an appointment with the Organization, staff members in the international Professional and higher categories accept to serve the Organization in any post to which they are assigned at Headquarters or in the field.
  - [...]

**Basic Principles**

7. The principles underpinning geographical mobility in UNESCO are as follows:
- (a) Geographical mobility is driven by operational needs and organizational priorities, i.e. by the need to ensure an effective delivery of UNESCO's programmes.
  - (b) Geographical mobility is mandatory and is applicable to internationally recruited staff in the Professional and higher categories holding fixed-term appointments.
  - (c) Geographical mobility is an important element of the Organization's Human Resources Strategy, including HR planning. It is also an integral part of internationally recruited staff members' career development.
  - (d) Due consideration is given to the assignment preferences expressed by staff members and to their personal and family circumstances assessed on a case-by-case basis.

[...]

**Deferments**

51. Deferments for inclusion in the geographical mobility exercise are exceptional and will be reviewed and approved considering the compelling personal circumstances of staff members and the best interests of the Organization.
52. Two types of deferments will be considered: personal deferments and operational deferments.

**Personal deferments**

53. Staff members, in some specific situations, may have their reassignment deferred for a defined period, normally not exceeding two years. Personal deferment requests should be submitted in writing to DIR/HRM and should be supported by valid and documented reasons which prevent inclusion in the geographical exercise at that time.
54. A personal deferment may be granted in the following situations:

[...]

- (c) If a staff member has a child that is within 2 years of graduating from high school in the current duty station.
- (d) If a staff member has other compelling family/personal circumstances.

55. DIR/HRM will review each personal deferment request and prepare a recommendation to [the Assistant Director-General for the ADM Division, ADG/ADM] for his/her decision. [...] For requests based on personal/family issues, the review and evaluation shall be requested to the Staff Counsellor. [...]
56. Personal deferment requests must be submitted before the year in which the staff member is required to move to a different duty station or as soon as the compelling reasons, justifying the request for deferment, are known.
57. DIR/HRM will inform staff members of the decision taken on their personal deferment requests.

[...]

#### **E. Roles and Responsibilities**

81. Staff members are responsible for:

- (a) Abiding by the mobility policy.

[...]

- (f) Ensuring that they take the necessary measures to reach their new duty station or functional mobility assignment within the given period once the reassignment has been approved.

[...]

#### **F. Support Measures**

[...]

#### **Timing of the Reassignment**

86. Following the notification of reassignment, the date of transfer(s) is agreed upon between the releasing and receiving managers, as well as with the staff member(s) concerned. The transfer should take place within three months of the notification. In the event of disagreement, the final decision will be taken by the ADG/ADM in the case of reassignments through geographical mobility [...]

- lastly, Administrative Circular AC/HR/65, entitled “Managed Mobility Programme”, recalled that a mandatory “geographical” mobility exercise (paragraphs 8 to 20 of the Circular) took place at the beginning of each year (paragraph 19 of the Circular), applicable, subject to the exceptions provided for in the Circular, to all internationally recruited staff in the Professional and higher categories (categories P and D) on fixed-term appointments (paragraph 9 of the Circular) who had served for the maximum period of time expected of internationally recruited staff members

in the same duty station (paragraph 11 of the Circular), which was the complainant's case. For a post at Headquarters, this maximum period was six years (paragraph 11 of the Circular). The reassignment of eligible staff members in the geographical mobility exercise took place in five phases, as provided for in Item 5.11 of the HR Manual (paragraph 20 of the Circular): a planning phase by the end of which the various posts included in the annual mobility exercise were determined; an advertisement phase during which eligible staff members could indicate their preferences for up to three posts in the group of posts subject to mobility, as well as any special circumstances they wished the Organization to consider when deciding on their reassignment; a review phase during which Assistant Directors-General of Sectors and Directors of Bureaux/Institutes submitted proposals for reassignment or continuation-in-post to the geographical mobility review panels; a phase in which these various proposals were reviewed by different geographical mobility review panels and recommendations were made by these panels to either the Director-General or the ADG/ADM; and a phase during which reassignment decisions were taken either by the Director-General, particularly as regards reassignment to P-5 posts, or by the ADG/ADM.

It was also confirmed that, in accordance with the aforementioned provisions of the HR Manual, postponed inclusion in annual geographical mobility exercises by eligible staff members, in particular deferment on personal/family grounds, was exceptional and based on compelling justification (paragraph 32 of the Circular).

4. With regard to the Tribunal's case law on the transfer of international civil servants, in addition to taking account of the relevant provisions as laid down by the organisation concerned, the Tribunal has also applied the following general principles.

It is settled case law that the executive head of an international organisation, as a general rule, has wide discretion to assign staff in the interest of the organisation (see, in particular, Judgments 4609, consideration 4, and 4599, consideration 19).

While it is established that the executive head of an international organisation or the competent official or body must take into account the organisation's interests and the staff member's abilities and interests in the exercise of the discretion to transfer a staff member, in cases where the two are at odds, greater weight may be accorded by the decision-maker to the interests of the organisation (see, for example, Judgments 2635, consideration 6, and 325).

Moreover, anyone who joins an international organisation with duty stations in several places in the world, as is the case for UNESCO, must of course anticipate the risk of transfer, as is expressly stated in aforementioned Staff Regulation 1.2 (compare, by way of example, with Judgments 1757, consideration 15, and 1055, considerations 6 and 7). In this respect, and as the Tribunal has also pointed out, the question of children's education does not in itself constitute an insurmountable obstacle to the transfer of an international civil servant, provided that reasonable arrangements are made to take account of the family situation and personal interests of the staff member concerned (see, on this subject, Judgment 1250, consideration 14) nor is her or his express consent required (see, in this regard, Judgment 3581, consideration 7).

5. The Tribunal also recalls its established case law that it exercises only a limited power of review in this area. It will intervene only if the decision was taken without authority, if it was taken in breach of a rule of form or procedure, if it was based on an error of law or fact, if a material fact was overlooked, if a plainly wrong conclusion was drawn from the facts, or if there was abuse of authority (see, in particular, Judgments 4595, consideration 2, 4084, consideration 13, 3488, consideration 3, and 2562, consideration 12).

6. In two of the various pleas in his complaint, the complainant submits, firstly, that the Director-General's decision notified to him on 26 June 2023 was not "properly reasoned"\* in that no account was taken of his arguments relating to his daughter's education and custody or of the Appeals Board's recommendation that the Organization "show

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\* Registry's translation.

goodwill towards the complainant by treating him on an equal footing with his colleagues in the same situation”<sup>\*</sup> and, secondly, that this reasoning was, in any event, based on a series of errors of law or fact, a failure to take account of material facts and plainly wrong inferences drawn from the facts.

However, the Tribunal recalls that the validity of the Organization’s reasons supporting its decision to refuse to defer an assignment in the 2019 geographical mobility exercise must be examined in the light of all the circumstances of the case.

In this regard, the Tribunal notes that, in respect of the custody of his daughter, the complainant had already raised this ground when he requested a deferment of his possible reassignment in 2018, explaining that this issue should be resolved by the end of 2019. As the complainant did not put forward any additional justifications in this regard in 2019, it was acceptable for the Organization no longer to agree to take this argument into account when it decided, in particular in the emails of 18 April and 26 April 2019, not to grant the complainant’s request for a deferment, made in particular in his email of 8 March 2019.

It also appears that the Organization, within the wide discretion granted to it in this matter, did not commit any error of judgement in considering that the condition for entitlement to a deferment laid down in aforementioned paragraph 54(c) of Item 5.11 of the HR Manual was not met in the present case. Indeed, the Organization was entitled to consider, without committing an error of law or adding a new condition in this respect compared with what is prescribed in this provision of the HR Manual, that a change in the complainant’s posting was not likely to jeopardise the completion by the complainant’s second daughter of secondary education in France. The Tribunal finds that, by so considering, the Organization acted in accordance with the spirit of the aforementioned provision and did not breach the principle *patere legem quam ipse fecisti*, contrary to what the complainant also submits in his third plea.

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<sup>\*</sup> Registry’s translation.

7. In its aforementioned emails, the Organization was also entitled to take into consideration the fact that the complainant had already received a deferment for the 2018 geographical mobility exercise and that he himself had indicated on that occasion that he was interested in a transfer to a field office, which could take place at the end of the 2018-2019 biennium.

The complainant raises a plea in that regard, based on the fact that the Organization could not take into account the first deferment, firstly, because there was no managed geographical mobility exercise in 2018, as this programme did not exist at the time, and, secondly, because the Organization did not make an explicit decision to that effect.

However, the Tribunal observes that it follows from the rules applicable in this matter, namely Item 5.10 of the HR Manual in the version in force until 7 December 2018 and Circular AC/HR/32 concerning the “Updated Policy on Geographical Mobility” which entered into force on 30 October 2013, that provision had already been made for a geographical mobility exercise in 2018. As can be seen from the summary of the facts set out above, the complainant had indeed requested a deferment of his assignment in the 2018 mobility exercise. Although it is true that the Organization has not provided proof that an explicit decision to grant a deferment of assignment, duly notified to the complainant, was indeed taken in 2018, it is nonetheless clear from the file submitted to the Tribunal that such a decision must have been made, albeit implicitly.

This plea must therefore also be rejected as unfounded, without there being any need to grant the complainant’s request for further evidence to be obtained as to the existence of such a mobility exercise for 2018.

8. Apart from the arguments already put forward in support of the initial decision to refuse to defer reassignment in the 2019 mobility exercise, the Director-General was also legally entitled, in her final decision of 26 June 2023, to refer to the opinion given by the Appeals Board on 27 March 2023, according to which the Organization had not omitted any essential facts or committed any error or abuse of authority

in considering, in the exercise of its discretion, that the complainant could not receive two successive deferments. The Appeals Board's incorrect conclusion that the complainant met the condition set out in aforementioned paragraph 54(c) of Item 5.11 of the HR Manual is irrelevant in this respect. This finding is all the more compelling given that the use of the word "may" in this provision means that staff members of the Organization have no formal right to benefit it and also that, pursuant to paragraph 51 of Item 5.11 of the HR Manual, "[d]eferments for inclusion in the geographical mobility exercise are exceptional".

Lastly, while it is also established that, in her decision notified on 26 June 2023, the Director-General did not take an express view on the Appeals Board's recommendation regarding the need to ensure compliance with the principle of equal treatment, it is nonetheless clear from the file that this factor was taken into consideration, but that the complainant's other colleagues were deemed not to be in an "identical"\* situation to his.

9. It follows from all the foregoing considerations that the pleas based on a failure to state adequate reasons, an error of judgement and the principle *patere legem quam ipse fecisti* are unfounded.

10. In his fourth plea, the complainant alleges a breach of the procedural rules governing the deferment of reassignment in that, firstly, he cannot be criticised for not stating, in 2018, a reason for deferment that only came into existence from 7 December 2018 in preparation for the subsequent mobility exercise and, secondly, the prior opinion of the Staff Counsellor was not sought, in breach of paragraph 55 of Item 5.11 of the HR Manual.

However, the second procedural defect alleged has no factual basis since the Organization has produced, as an annex to its surrejoinder, a document establishing that a prior opinion was in fact provided.

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\* Registry's translation.

Moreover, while it is true that this argument was put forward by the Organization in its submissions to the Tribunal, the first procedural defect alleged is not such as to lead to the setting aside of the decisions refusing to defer assignment in the 2019 geographical mobility exercise, since neither the impugned decision of 23 June 2023 nor the opinion of the Appeals Board to which that decision referred were based on that ground.

This plea is therefore also unfounded.

11. In his fifth plea, the complainant alleges a breach of a promise made to the trade unions by ADG/ADM that no one would be “forced”<sup>\*</sup> to undergo mobility in the 2019 geographical mobility exercise.

However, the Tribunal recalls that, according to its settled case law, the principle of good faith implies that a promise must be fulfilled only if it is “substantive” among other conditions (see, for example, Judgments 4253, consideration 6, 3619, considerations 14 and 15, 3148, consideration 7, 3115, consideration 5, 3005, consideration 12, 1278, consideration 12, and 782, consideration 1).

In the present case, apart from the fact that the complainant does not provide any tangible proof of the existence of such a promise and refers to mere hearsay, the trade union document that he produces is itself confusing since it states in the same passage of the document that “[...] mobility programmes should, first and foremost, prioritise voluntary reassignments”<sup>\*</sup>. The Tribunal considers that there was therefore no “substantive” promise within the meaning of its aforementioned case law.

This plea is also rejected.

12. In his sixth plea, the complainant considers that he faced discrimination compared with other staff members who were allegedly in the same situation as him but were granted a deferment of reassignment in the 2019 geographical mobility exercise pursuant to aforementioned paragraph 54(c) of Item 5.11 of the HR Manual.

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<sup>\*</sup> Registry’s translation.

However, the Tribunal recalls that a breach of the principle of equal treatment presupposes that the staff members to be compared are in an identical or similar position in law and in fact (see Judgments 4878, consideration 6, 4767, consideration 5, 4712, consideration 5, 4681, consideration 9, and 4498, consideration 27). In the present case and contrary to what he states in his submissions, the complainant has failed to demonstrate in a tangible manner that colleagues in a similar situation to his were treated more favourably than him by being granted a deferment of reassignment in the 2019 geographical mobility exercise.

This plea is, therefore, totally unfounded.

13. In support of his seventh plea, the complainant alleges a breach both of the duty of care and of paragraph 7(d) of Item 5.11 of the HR Manual, as no account was taken of his expressed preferences regarding assignment, nor of his arguments concerning his personal and family situation.

However, firstly, it is clear from all the foregoing considerations that the Organization did indeed take into account the personal circumstances put forward by the complainant with a view to obtaining a deferment of reassignment for 2019.

Secondly, the above summary of the facts makes plain that the complainant did not express a preference regarding assignment in the 2019 mobility exercise, even though the Administration had invited him to do so. Moreover, the present complaint concerns the legitimacy of the refusal to defer assignment decided in 2019, rather than the determination of the duty station to which the complainant was to be reassigned.

The plea must therefore be dismissed.

14. In his eighth and final plea, the complainant considers that the Organization contradicted its previous decision, in which it had taken into account the situation of his minor daughter in 2018 and the fact that he had partial custody of her.

The Tribunal observes, however, that while the Organization took account of the complainant's duties in respect of shared custody of his minor daughter when it assessed his request for deferment of his assignment in 2018, the complainant himself had stated that the situation would be quite different when his daughter reached the age of 17 in 2019, and that he was "definitely interested"\* in transferring to a field office at the end of the 2018-2019 biennium. In these circumstances, the Organization could consider, without committing an error of judgement or contradicting itself on this point, that the complainant's duties of shared custody of his minor daughter no longer in themselves justified a further deferment of reassignment in 2019.

This plea must also be rejected.

15. Apart from the pleas directed against the decisions to refuse to defer his reassignment in the 2019 geographical mobility exercise, the complainant also seeks compensation for the injury caused to him by the excessive delay in the internal appeal procedure, which lasted almost four years. He considers in that regard that it was possible for the Organization to organise meetings of the Appeals Board during the lockdown owing to the Covid-19 pandemic and that, in any event, "[s]ince 31 July 2022, no valid reason [could] be advanced for refusing [him] a face-to-face meeting of the Appeals Board"\*.

According to the Tribunal's case law, international civil servants are entitled to expect that their cases will be considered by internal appeal bodies within a reasonable timeframe and that failure to comply with this requirement of expeditious proceedings constitutes misconduct on the part of the organisation concerned (see Judgments 4727, consideration 14, 3510, consideration 24, and 2116, consideration 11). Moreover, the amount liable to be granted under this head ordinarily depends on two essential considerations, namely the length of the delay and the effect of the delay on the employee concerned (see Judgments 4727, consideration 14, 4635, consideration 8, 4178, consideration 15, 4100, consideration 7, and 3160, consideration 17).

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\* Registry's translation.

In the present case, it is not unreasonable for the Organization to have considered that it was not appropriate to hold face-to-face meetings of the Appeals Board during the Covid-19 pandemic, especially as strict rules had been laid down by the French authorities for the three lockdowns ordered during the pandemic. Nor can the complainant complain that a virtual meeting of the Appeals Board was not arranged during that period since he himself expressly declined that option in an email of 19 March 2021.

Although the complainant points out that he had requested, twice and the first time by email of 3 June 2022, that a face-to-face meeting of the Appeals Board be organised since the restrictions relating to the Covid-19 pandemic had been “lifted [...] for several month”\*, the eight-month period taken to organise such a meeting does not appear excessive given that, as the Organization rightly observes, the complainant’s appeal was considered on 2 February 2023, that is at the first meeting that could be held face-to-face by the Appeals Board after the restrictions had been lifted.

It is therefore not appropriate to grant the complainant’s claim for compensation under this head.

16. It follows from all the foregoing considerations that the complaint must be dismissed in its entirety, including the claims for compensation, punitive damages and costs.

#### DECISION

For the above reasons,  
The complaint is dismissed.

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\* Registry’s translation.

In witness of this judgment, adopted on 13 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.