

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

W.
v.
CIEPS

141st Session

Judgment No. 5101

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms D. W. against the International Centre for the Registration of Serials (CIEPS) on 1 February 2025 and corrected on 6 March 2024, the CIEPS's reply of 17 April 2024, the complainant's rejoinder of 26 July 2024 and the CIEPS's surrejoinder of 3 September 2024;

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

Having examined the written submissions;

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

The complainant challenges the non-renewal of her fixed-term appointment.

After working for some time with the CIEPS* as an external consultant, the complainant was selected for a post of chargé de mission under the supervision of the Director of the Centre, which at that time consisted of 14 staff members. She was employed by the CIEPS under a two-year contract, from 1 July 2019 to 30 June 2021. On 15 July 2020

* The CIEPS was officially created in Paris on 21 January 1976 under the terms of an agreement signed in November 1974 between UNESCO and France, the host State of the International Centre.

she began to take on duties as a staff representative. Her contract was then extended for two further years, from 1 July 2021 to 30 June 2023.

By a letter dated 28 April 2023, sent by registered mail with official acknowledgement of receipt, the complainant was informed that her appointment would not be renewed beyond 30 June 2023 and that she would consequently receive the indemnity provided for under Article 76 of the Staff Regulations. A team meeting was held on the same day, during which budgetary constraints affecting the Centre were discussed.

On 2 May 2023 the complainant met with the external consultant responsible for financial matters, who also informed her of the budgetary constraints that the organization was facing.

On 11 May 2023 the complainant sent the Director of the Centre a request for reconsideration of the decision not to renew her appointment.

By a letter dated 26 May 2023, the Director rejected the complainant's request for reconsideration. In her letter, she indicated that the non-renewal decision was motivated by "the financial and budgetary situation of the Centre"* and, more specifically, the adoption, at the 95th Session of the Governing Board of the CIEPS, held from 25 to 27 April 2023, of a revised budget reducing staff expenditure. Consequently, the Director had been obliged to leave the post occupied by the complainant vacant.

On 26 June 2023 the complainant submitted to the Appeal Committee an appeal against the decision of 26 May 2023, alleging, *inter alia*, that the non-renewal of her contract was due to her role as a staff representative.

On 25 July 2023 the Centre provided its comments in relation to the complainant's appeal.

The day before the Appeal Committee hearing, on 30 August 2023, the complainant sent an email to the Appeal Committee, in which she requested that a witness be heard. She also asked the Committee to take into account additional documents, which she attached to her email. She was given a reply on the same day that that would not be possible under

* Registry's translation.

Articles 110 and 113 of the Staff Regulations. The Appeal Committee hearing took place on 31 August 2023.

On 19 October 2023 the Appeal Committee issued its report, in which it recommended that the complainant's appeal be dismissed. In its report, the Committee concluded that the non-renewal of the complainant's appointment had been decided in accordance with the Centre's legal framework and the Tribunal's case law. The Committee considered that it was for the Director to decide not to renew the complainant's contract as a consequence of the budgetary decisions taken by the Governing Board and that it was not for the Committee to review the approval process of the Board's budgetary decisions. The Committee further considered that the evidence provided by the complainant was insufficient to establish that her appointment was not renewed for reasons other than budgetary reasons. Lastly, the Committee observed that the grounds for the non-renewal had been duly communicated to the complainant.

By a letter of 31 October 2023, the Director notified the complainant of her decision to endorse the conclusions of the Appeal Committee and to reject her appeal. That is the impugned decision.

The complainant asks the Tribunal to declare unlawful the aforementioned decisions of 31 October, 26 May and 28 April 2023. In compensation for the material injury she considers she has suffered, she claims payment of two years' salary, subject to deduction of the salary she receives in her new job, and requests that this payment be combined with interest for late payment at an annual rate of 10 per cent. She further seeks moral damages in the amount of 30,000 euros. Lastly, she seeks an award of 15,000 euros in costs.

The CIEPS asks the Tribunal to dismiss the complaint in its entirety.

CONSIDERATIONS

1. Besides seeking compensation for the material and moral injury that she alleges to have suffered and requesting that the CIEPS be ordered to pay costs, the complainant requests the Tribunal to “declare unlawful” the Director’s decisions of 28 April not to renew her appointment, of 26 May 2023 rejecting her request for reconsideration and of 31 October 2023 whereby her appeal was also rejected, and therefore set them aside.

2. Since the complainant’s challenge concerns the lawfulness of a decision not to renew a fixed-term appointment, it should be recalled that an employee on such a contract does not have a right to the renewal of the contract when it expires (see, for example, Judgments 4587, consideration 19, and 3448, consideration 7). The decision not to renew the appointment of an official in an international organization lies within the discretion of the organization’s executive head and is therefore subject to only limited review by the Tribunal. It may only be set aside if it was taken without authority, or in breach of a rule of form or of procedure, or was based on a mistake of fact or of law, or if some essential fact was overlooked, or if clearly mistaken conclusions were drawn from the facts, or if there was abuse of authority (see, for example, Judgments 4877, consideration 2, 4654, consideration 16, 4172, consideration 5, 2148, consideration 23, or 1052, consideration 4). Furthermore, the Tribunal’s role in reviewing decisions not to renew contracts for budgetary reasons is limited (see Judgments 4953, consideration 4, 4834, consideration 2, and 3367, consideration 11). However, the fact remains that any decision not to renew such a contract must be based on objective and valid reasons (see, in particular, Judgment 4654, consideration 16). It is therefore against this legal background that the complainant’s various pleas against the decisions she seeks to have set aside should be considered.

3. With regard to the alleged flaws in the proceedings before the Appeal Committee, the complainant alleges, in her first plea, a violation of Article 111 of the Staff Regulations of the Centre, in that she was not

directly copied in by the Director to the observations that the Director submitted to the Appeal Committee in response to her appeal.

However, while it is true that this provision was not strictly observed, the complainant nevertheless acknowledges in her complaint that she received a copy of these observations by an email from the President of the Appeal Committee dated 25 July 2023, the same date on which the Director submitted her observations and more than five weeks prior to the hearing scheduled before the Committee.

The flaw identified is therefore not such as to have adversely affected the complainant.

The first plea is unfounded.

4. In a second plea, the complainant asserts that the time limit within which the Appeal Committee should have met pursuant to Article 112 of the Staff Regulations was not observed, since this time limit, of 30 days from the communication of the CIEPS's observations to the Appeal Committee, expired on 24 August 2023, and that the Committee held the hearing only on 31 August 2023.

The Tribunal observes, however, that Article 112 of the Staff Regulations does not set an absolute time limit of 30 days. In the event that the required quorum is not met, this article allows for the hearing to be deferred for up to a maximum of four additional weeks. This is exactly what happened in this case, as it appears from the evidence that the President of the Appeal Committee warned the complainant that because of the summer period concerned and because of her own schedule, it would not be possible for her to convene the required number of members of the Appeal Committee by 24 August 2023, but that it would be possible to do so during the week of 28 August to 1 September 2023. The complainant also expressly replied that she could accept a deferral of one week, provided that the Committee's hearing was not scheduled for 1 September.

Accordingly, the second plea must also be rejected.

5. In a third plea, concerning the process for the appointment of Appeal Committee members, the complainant explains that the Director asked staff who had publicly supported her to recuse themselves in advance from the ballot provided for in Article 109 of the Staff Regulations in order to ensure the impartiality of the Committee, which, in her opinion, is problematic in several respects. The complainant contends that, firstly, this could have been perceived as pressure or intimidation by the staff concerned, who were also on fixed-term appointments; secondly, the request to recuse themselves should not have preceded the ballot, but should rather have been made afterwards, based on specific facts; and thirdly, the President of the Appeal Committee would have been better qualified than the Director to issue this reminder. All these elements, according to the complainant, were such as to call into question the impartiality of the Appeal Committee which expressed a view on the dispute between the complainant and the Director.

As the Tribunal has consistently held, the burden of proving a lack of impartiality is on the party that pleads it and mere suspicions and allegations unsupported by tangible evidence are insufficient to establish a lack of partiality on the part of all or some members of a collegiate appeal body (see, for example, Judgments 4842, consideration 4, 4662, consideration 13, and 4553, consideration 7).

In the present case, the complainant's various contentions do not meet these requirements. In the first place, Article 109 of the Staff Regulations provides that the Appeal Committee shall consist of six members, of whom three shall be appointed by ballot from the Centre's staff members, with the exception of the staff member who submitted the appeal. In view of the Centre's small staff base – 14 staff members at the material time – and the circumstance that some of her colleagues has already made statements in support of the complainant, it was not untoward for the Director, even before the ballot, to remind all staff members present, and those who were not present by telephone, of the principle of impartiality of the members of a collegial body. It is irrelevant in this regard that the Director might also have availed herself of her right to object following the ballot, or that the President of the

Appeal Committee might also have issued this reminder. Lastly, the complainant's mere assertion that the staff members in question were on fixed-term appointments is insufficient to establish her allegations of pressure and intimidation.

It follows from the foregoing that the third plea must also be rejected.

6. In a fourth plea, the complainant alleges a further breach of Article 109 of the Staff Regulations, claiming that the modalities established for the hearing on 31 August 2023 were not adopted by all members of the Appeal Committee.

The Tribunal finds, however, that this plea has no factual basis. It is clear from the submissions that these modalities were approved by all members of the Committee at the start of the hearing at which the complainant's case was considered.

The fourth plea cannot therefore be accepted.

7. In a fifth plea, the complainant alleges various violations of the adversarial principle and of her right to be heard by the Appeal Committee. Firstly, she states that her request of 25 August 2023 that certain witnesses be heard was refused with reference to Article 113 of the Staff Regulations, since this request was not made at the time she lodged her appeal on 26 June 2023. Secondly, she alleges that the President of the Appeal Committee refused to send the other Committee members the additional annexes provided by the complainant on 30 August 2023, the day before the Committee hearing.

In respect of the first contention, the evidence on file shows that by an email of 25 August 2023 addressed to the President of the Appeal Committee, the complainant stated that she "should be able to request witnesses after submitting [her] appeal". On 30 August 2023 at 1.27 a.m. the complainant then requested, by another email addressed to the President, that a specific witness be heard, namely Mr G. In respect of the second contention, it can be established from the submissions that the complainant, by the same email of 30 August 2023, provided 13 additional documents requesting that the Committee

take them into account. Similarly, it is established based on the submissions that these documents were forwarded to the CIEPS only on the day prior to the Committee hearing, specifically at 4.12 p.m.

The Tribunal observes that the Staff Regulations do not require the parties to indicate, at the time of filing an appeal before the Appeal Committee, the witnesses that they wish to be heard at the Committee hearing. On the contrary, Article 110 of the Regulations provides only that the appeal “may, as appropriate, name witnesses whom the appellant wishes to call on his or her behalf”, while Article 113, on the procedural aspect of hearings before the Appeal Committee, provides that the parties may “give evidence and call witnesses”. Similarly, under the same article, the parties and any member of the Appeal Committee may, at the hearing, “request the production of any relevant documents”.

While one cannot therefore consider, as the President of the Appeal Committee did, that the relevant provisions of the Regulations require that any request to hear witnesses be made and any documents be produced at the time of filing the appeal, nevertheless such steps must be taken with respect for the principles of adversarial procedure and equality of arms, particularly when the organisation objects to them as being time-barred, as was the case here.

In these conditions, the Appeal Committee was right to decide to disallow the complainant’s requests as time-barred in view of the circumstances of the case. With regard to the 13 additional documents that the complainant wished to submit at the last minute, that did not prevent her, as the President of the Appeal Committee indicated to her, from referring to their substance at her hearing by the Committee. It also appears, with regard to the request to hear Mr G., that the written testimony of the latter was already included in the documents annexed to the appeal filed by the complainant.

Furthermore, the Tribunal notes that the complainant does not establish in any concrete way how, specifically, the rejection of her requests by the Appeal Committee caused her injury.

It follows from the foregoing considerations that the fifth plea is unfounded.

8. In a sixth plea, the complainant complains that contrary to what she had been told by the President of the Appeal Committee, the hearing held before the Committee on 31 August 2023 was not recorded and that, consequently, the Committee's report contained errors which, in her opinion, were to her detriment.

However, while the Tribunal notes that the Regulations contain no provisions requiring hearings before the Appeal Committee to be recorded, the complainant fails to establish how this failure to record the hearing specifically affected her adversely in this case. The only evidence on which she relies in this regard concerns a mistake in the report of the Appeal Committee, which did not correctly transcribe her claims for compensation. Since the Committee held that the decision not to renew the complainant's appointment was well-founded and recommended that the appeal be dismissed, this alleged error therefore had no impact on the lawfulness of the impugned decision.

The sixth plea must be rejected.

9. In a seventh plea, the complainant alleges that there was a conflict of interest involving one of the two interpreters who participated in the hearing before the Appeal Committee, on the grounds that she had previously been the opposing party to the complainant's counsel in separate legal proceedings, and that "a certain lack of impartiality on her part could not reasonably be excluded".*

The Tribunal recalls that, just as with the allegation of a violation of the principle of impartiality (see consideration 5, above), an allegation of a conflict of interest by the party that pleads it must be based on specific facts, not on mere suspicions or hypotheses, and that the official asserting the existence of such a conflict bears the burden of proving it (see, for example, Judgments 4963, consideration 15, 4891, consideration 11, and 4616, consideration 6).

* Registry's translation.

In the present case, the complainant simply expresses mere suspicions and fails to produce any evidence of a conflict of interest or partiality, it being emphasized that an interpreter does not participate in the deliberations of the Appeal Committee as such.

It follows that the seventh plea is equally untenable.

10. In an eighth plea, the complainant considers that the Appeal Committee did not effectively review the lawfulness of the decision not to renew her appointment. She submits that the Committee simply left the matter to the discretion of the Director, whereas she had, in her opinion, provided “multiple items of evidence in support of her appeal, demonstrating [...] the doubts relating to the grounds for the non-renewal ultimately alleged”*. She adds that the “statements made in abstract and general terms by the Appeal Committee did not respond to the evidence [that she had] provided”*, and that the Committee did not consider one of her pleas. She concludes therefore that the impugned decision, which merely endorses the reasoning contained in the Appeal Committee’s opinion, involves the same error of law and should, consequently, be set aside.

However, the Tribunal recalls that the report of an internal appeal body warrants considerable deference in circumstances where it involves a balanced and thoughtful analysis of the issues raised in the internal appeal and when, in the light of this analysis, the conclusions and recommendations of the body appear reasonable and justified, as is the case in this instance (see, in particular, Judgments 4488, consideration 7, 4005, consideration 14, 3969, consideration 11, and 3908, consideration 3).

Having read the Appeal Committee’s report, the Tribunal finds that the Committee properly performed the review that it was required to perform and sufficiently substantiated its opinion. In fact, the Committee duly noted the arguments exchanged by the parties and set out in detail the reasons that led it to conclude that the decision not to renew the complainant’s appointment had been taken as a consequence of the

* Registry’s translation.

Governing Board's budgetary decisions and in accordance with the Centre's legal framework and the Tribunal's case law. It also explained why it considered that the complainant, on whom the burden of proof lay in this regard, had not established, to the extent required by law, her allegations that the true reasons for the decision not to renew her appointment were not budgetary but rather her capacity as a staff representative and the Director's animosity towards her. Lastly, contrary to the complainant's contention, the Committee did deal with her plea that there was a procedural flaw in the adoption of the Centre's revised budget, to which it explicitly replied in its report that it was not for the Committee to review the approval process of the Governing Board's budgetary decisions.

It is another matter to determine whether the reasoned opinion on which the impugned decision of 31 October 2023 is based is lawful, which will be considered at a later stage.

The eighth plea is therefore unfounded.

11. In what can be construed as a ninth plea, the complainant points out that the Director's decision of 28 April 2023 not to renew her appointment was not substantiated, which is contrary to the general principle of good faith and the Centre's duty of care.

The Tribunal notes that the above-mentioned decision of 28 April 2023 merely informed the complainant that her contract would not be renewed, without specifying the reasons. It recalls, however, that consistent precedent has it that the reasons for a decision not to renew an appointment must be communicated to the official concerned, although they need not necessarily appear in the non-renewal decision itself (see, in this connection, Judgments 4877, consideration 2, 4368, consideration 15, 3914, consideration 15, and 1750, consideration 6), since the subsequent communication of this reason would enable the official concerned to decide, consequently, whether to exercise her or his right of appeal (see, for example, Judgments 4368, consideration 15, 3914, consideration 15, 3617, consideration 5, 3117, consideration 9, and 1817, consideration 6).

In the present case, it is plain from the submissions that, at a team meeting held on 28 April 2023, all staff members were informed of budgetary constraints affecting the Centre. Furthermore, on 2 May 2023, the complainant spoke with the external consultant responsible for financial matters, who also informed her of the budgetary difficulties encountered by the organization. Lastly, the Director expressly indicated in her decision of 26 May 2023 rejecting the complainant's request for reconsideration of 11 May 2023 that the non-renewal decision was motivated by "the financial and budgetary situation of the Centre" and, more specifically, the adoption at the 95th Session of the CIEPS Governing Board, held from 25 to 27 April 2023, of a revised budget reducing staff expenditure. It follows that the complainant was fully aware of this reason when she lodged her appeal with the Appeal Committee.

The ninth plea must therefore be dismissed.

12. In a tenth plea and more fundamentally, the complainant submits that many factors cast doubt on the validity of the reason given by the Director for the decision not to renew her appointment. Firstly, with reference to a report issued on 7 June 2023 by the Centre's three heads of department, she initially alleges that the post which she occupied was essential to the smooth functioning of the Centre and therefore could not be left vacant, which was established by the use of two external consultants called upon to carry out work on a strategic project that was part of the post she occupied. Still with reference to the same report, she further maintains that the same heads of department expressed their concern and questions regarding "the unexplained budgetary difficulties" that the Centre was encountering and their consequences. Secondly, some members of the Governing Board, at least one of them, "supposed to be behind the decision [not to renew] according to the Director"* , expressed surprise at the decision. Thirdly, the complainant considers that there were alternative ways of reducing

* Registry's translation.

the Centre's budgetary costs with lesser consequences for officials, including by using reserve funds as had been done in the past.

It should first be recalled that, according to consistent precedent, financial or budgetary considerations may constitute a sufficient, valid and objective reason to justify the non-renewal of an appointment (see, in particular, Judgments 3837, consideration 10, and 1044, consideration 3).

In view of this precedent and having examined the written submissions and evidence, the Tribunal notes, firstly, that the post occupied by the complainant remained vacant after the decision not to renew her appointment. Although two external consultants were employed to carry out a number of highly specific and time-limited tasks which might, to some extent, have overlapped with the complainant's responsibilities, this circumstance is not sufficient to establish that the non-renewal of the complainant's contract was not justified. In this regard, the Tribunal notes that the services of these two consultants were provided only over a period of 15 and 34 days, respectively, which therefore did not have the same budgetary impact as the cost of renewing the complainant's appointment as a staff member for a period of two years.

Secondly, it is not for the Tribunal, within the limited scope of its power of review in this matter, to supersede the appraisal made by the Director and the Governing Board concerning the budgetary restrictions requiring the non-renewal of the complainant's appointment. It could not be otherwise unless this consideration was based on one of the flaws recalled in consideration 2, above. This is clearly not the case in the light of the evidence in the file, which establishes that there was an imbalance between income and expenditure when the revised budget for 2023 was adopted and that, despite the action taken, the final net result for the financial year 2023 remained negative. The minutes of the 95th Session of the Governing Board, held from 25 to 27 April 2023, show that the budget for 2023 was to include a "decrease in staff costs". The mere fact that the three heads of department considered the complainant's post to be essential to the smooth functioning of the Centre and were not convinced about the organization's budgetary difficulties does not mean that these elements may be called into

question. Furthermore, the contention that some members of the Governing Board “supposed to be behind the [non-renewal] decision according to the Director” expressed surprise at the decision is inconsistent with the explicit reference to the decrease in staff costs in the minutes of the 95th Session of the Governing Board.

Lastly, it is not for the Tribunal, within the limited scope of its power of review in this matter, to supersede the Director’s appraisal by considering whether there were other possible financial alternatives to the non-renewal of the complainant’s appointment that would have enabled the Centre to cope with the budgetary difficulties that it was facing.

It follows from the foregoing considerations that the tenth plea must be dismissed.

13. The complainant, in an eleventh plea, considers that the decision not to renew her appointment constituted an abuse of authority, in that it was based on ulterior motives unrelated to the interest of the Centre. This decision could only be explained, in her view, by the fact that she was a staff representative, which had resulted in animosity on the part of the Director towards her.

However, the Tribunal recalls, in accordance with a firm line of precedent, that abuse of authority may not be presumed and the burden of proof is on the party that pleads it (see, for example, Judgment 4654, consideration 22).

In the light of the evidence and the Tribunal’s findings under consideration 12 above concerning the budgetary difficulties encountered by the Centre requiring a decrease in staff costs, the Tribunal considers that while working relations may sometimes have been strained between the Director and not only the complainant but other members of staff, and, in particular, other staff representatives, it cannot, however, be considered that the decision not to renew the complainant’s appointment was in fact based on grounds other than budgetary considerations. This finding is all the more applicable since the complainant’s contract was renewed on 1 April 2021, when she was already a staff representative. Furthermore, the complainant’s assertion

in this regard that the difficulties she encountered as a staff representative emerged only after this date is not established to the extent required by law.

It follows that the eleventh plea must be dismissed.

14. In a twelfth and final plea, the complainant asserts that the Centre's budgetary difficulties on which the Director based her decision not to renew her appointment were the result of an unlawful decision by the Governing Board to revise the organization's budget downwards for the financial year 2023. According to the complainant, this decision was adopted in breach of the quorum rules prescribed in Article 15(2) of the rules of procedure of the Governing Board.

Pursuant to this provision, decisions of the Centre's Governing Board shall be taken by a majority of the members present, including the votes of the representatives of the Director-General of UNESCO and the host State.

The minutes of the 95th Session of the Governing Board, held on 25, 26 and 27 April 2023, show that the budget, revised downward for 2023, was adopted by a "majority" and that the representative of the Director-General of UNESCO abstained from voting. In its written submissions, the CIEPS argues that the disputed vote was passed unanimously by the members present, with the exception of the representative of the Director-General of UNESCO, who abstained. It explains that this abstention was due to the fact that a new representative was attending a Board meeting for the first time and had, therefore, chosen to abstain on all substantive votes, without intending to express disagreement with the decision put to the vote. It further submits that, in these conditions, the Governing Board considered, in line with the practice followed by the United Nations Security Council, that the vote was valid because it was passed unanimously by the members present, with one abstention.

However, the Tribunal notes that although there was a flaw in the adoption of the revised budget, that would not necessarily render the decision not to renew the complainant's contract unlawful. As noted under consideration 12 above, the Tribunal considers that the difficult

budgetary situation of the Centre in early 2023 was an established fact, with or without the vote on a revised budget, and that it was in any case for the Director to take the measures that she deemed necessary in order to ease the situation to the extent possible. In the circumstances, the Tribunal considers that while the complainant is certainly justified in arguing that the Appeal Committee erred in law in considering that it was not for it to review the approval process of the Governing Board's budgetary decisions, in this case this error has no impact on the lawfulness of the impugned decision.

The twelfth plea must also be rejected.

15. The complainant applies for oral proceedings before the Tribunal and for the hearing of witnesses.

This application must, however, be dismissed, since in the light of the above considerations, the Tribunal considers that it has been sufficiently informed, in view of the pleadings submitted and the evidence produced by the parties, to take a decision in full knowledge of the facts.

16. Since all of the complainant's pleas in support of her complaint fail, the complaint must be dismissed in its entirety.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 30 October 2025, Mr Patrick Frydman, Vice-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 10 February 2026 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLEMENT GASCON

RENÉ M. VARGAS M.