

S. (No. 5)

v.

Interpol

141st Session

Judgment No. 5137

THE ADMINISTRATIVE TRIBUNAL,

Considering the fifth complaint filed by Ms E. S. against the International Criminal Police Organization (Interpol) on 27 November 2020, Interpol's reply of 5 March 2021, the complainant's rejoinder of 7 April 2021, Interpol's surrejoinder of 30 July 2021, the complainant's additional submissions of 26 October 2021 and Interpol's final comments thereon of 24 November 2021;

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 impugns what she considers to be the refusal to provide her with full access to her personal file.

Additional facts regarding the context of this case may be found in Judgment 4334, concerning the complainant's first complaint, Judgment 4509, concerning her second complaint, and Judgment 4510, concerning her third and fourth complaints.

The complainant joined Interpol in 2016 under a three-year fixed-term contract. On 24 April 2018, she was placed on certified sick leave and, on 24 May 2018, Interpol's staff doctor certified that she was permanently unfit for work. On 28 November 2018, she was informed

of the decision of 27 November 2018 to terminate her employment on medical grounds with effect from 30 November 2018.

On 26 May 2020, the complainant requested the Director, Human Resources Management (HRM), to be provided with a hard copy of her complete personal file, pursuant to Staff Rule 1.7.5.

On 1 July 2020, she received an envelope from the Organization containing 64 sheets of paper documents.

By a letter of the same day addressed to the Director, HRM, the complainant made a “second request for supply of a hard copy of complete personnel file, including the period between 14 April 2018 until the end of [her] employment”. She asked that the documents be communicated to her “within 60 days from the receipt of [her] initial request of 26 May 2020”. She added that “[i]n case of the Organization’s refusal to provide [her] with a hard copy of [her] complete personnel file within 60 days from the receipt of [her] initial request”, her 1 July 2020 letter should be regarded as “an application for internal appeal” challenging such refusal.

On 29 August 2020, the complainant asked the Secretary General to “advise [her] of [Interpol]’s decision regarding [her] application for the internal appeal dated 01 July 2020”. She contended that Interpol had withheld from her personal file documents “regarding the period between 14 April 2018 until the end of [her] employment”. She further stated that, “[i]n accordance with the Staff Regulation[s] 13.1 and 13.3, [she was] lodging the internal appeal to challenge the administrative decision, dated 01 July 2020, dispatched 01 July 2020 by French registered mail, challenging the content of [her] personnel file, which contradicts the provisions of the Staff Rule 12.1.2. (2)”.

On 2 November 2020, the complainant sent to Interpol a “Request for information on the status of the proceedings for Internal Appeals of 01 July 2020 and 29 August 2020”.

On 27 November 2020, the complainant filed her fifth complaint with the Tribunal, under Article VII, paragraph 3, of the Tribunal’s Statute. On the complaint form, the complainant indicates 1 July 2020 as the date on which she notified Interpol of her unanswered claim.

On 29 January 2021, Interpol provided the complainant with an electronic copy of her personal file, which included additional documents. Then, on 2 July 2021, Interpol sent the complainant an email containing an “enhanced copy” of her personal file.

The complainant asks the Tribunal to set aside the “rejection of [her] internal appeal request of 01 July 2020” and to “oblige [Interpol] to follow its internal appeals procedures”. She seeks moral damages for “the refused right to access to [her] personnel file records”, the “loss of opportunity for the comprehensive preparation of [her] defence”, “ignoring [her] requests of information on the progress in the Organization’s internal appeals proceedings” as well as the delay in the internal proceedings. Additionally, she claims costs. In her rejoinder, she makes a claim for exemplary damages.

Interpol asks the Tribunal to dismiss the complaint as irreceivable, arguing that it has become moot due to the provision of full access to her personal file. Alternatively, it requests the Tribunal to dismiss the complaint as unfounded.

CONSIDERATIONS

1. The complainant impugns what she considers to be the implied rejection of her internal appeal lodged on 1 July 2020 against the implied partial rejection of her request to be provided with a hard copy of her “complete personnel file”. She filed her first request to be provided with her personal file on 26 May 2020 and addressed it to the Director, HRM. On 1 July 2020, she acknowledged receipt of an envelope containing “64 sheets of paper of documents copies, dated from 04.12.2015 [to] 13.04.2018”, and submitted a second request to the Director, HRM, to be provided with a hard copy of her “complete personnel file, including the period between 14 April 2018 until the end of [her] employment with [the] Organization”. She added that her letter of 1 July 2020 should be regarded as an internal appeal, in case the Organization failed to grant her full access to her personal file.

2. The Tribunal finds the complaint partially moot, and unfounded in the remainder.

3. The complaint is partially moot – as the complainant was provided with further documents pertaining to her personal file on 29 January 2021 and on 2 July 2021 – and it is unfounded in the remainder.

Regarding the documents provided on 29 January 2021, the complainant acknowledges in her rejoinder that she received 16 additional documents, rendering the complaint moot to that extent. The complainant insists that the following documents were still missing from her personal file after the disclosure of 29 January 2021:

- (a) “the warning issued by Ms [C.]” on 2 February 2018 and the reply to her request for review about such warning that she had submitted on 3 March 2018;
- (b) the 14 April 2018 decision to “change [her] position”;
- (c) the separation agreement received on 30 August 2018;
- (d) the decision to place the complainant on unpaid leave in September, October, and November 2018;
- (e) any documents preceding the 27 November 2018 decision to terminate her contract;
- (f) any documents preceding the decision on the final settlement of account;
- (g) the documentation supporting the aforementioned decisions;
- (h) the investigation reports on the following harassment cases:
 - (h.1) 9 June 2017 – “Harassment complaint to the Secretary General”;
 - (h.2) 28 September 2017 – “Official complaint to the manager”;
 - (h.3) 12 October 2017 – “Complaint sent to [Human Resources]”;
 - (h.4) 23 January 2018 – “Written statement on PAR 2017 sent to EDRM director, [Human Resources], CFO, FSSM director”.

In its surrejoinder, Interpol asserts that the complainant was provided with an enhanced copy of her personal file on 2 July 2021, and contends that some of the documents listed above either do not exist or cannot be included in her personal file.

In her further written submissions, the complainant objects to Interpol's assertion only with regard to the investigation reports listed under (h) and adds that the investigation report issued on her harassment complaint addressed to the Secretary General on 11 September 2018 is also missing from her personal file.

Given this sequence of events, in addition to being moot regarding the documents disclosed on 29 January 2021, the complaint is also moot with regard to the documents listed above from (a) to (g).

4. For the sake of completeness, the Tribunal adds that the complaint is also unfounded regarding the complainant's contention that the following documents should have been included in her personal file, for each of the reasons specified:

- (a) the warning issued by Ms C., as, pursuant to Rule 12.1.2, warnings must not be recorded in a staff member's personal file;
- (b) the separation agreement received on 30 August 2018, as it was merely a proposal and no separation agreement was concluded between the parties (see Judgment 4509 concerning the complainant);
- (c) the decision to place the complainant on unpaid leave in September, October, and November 2018, as no such express decision existed; her unpaid leave status was only evidenced by her payslips from September to November 2018, and, in any event, she was later paid for these three months (see Judgment 4510 concerning the complainant);
- (d) any documents preceding the 27 November 2018 termination decision, any documents preceding the decision on the final settlement of account, and the documentation supporting the aforementioned decisions, as there is no evidence of their existence.

5. The complainant's contention that the investigation reports into her harassment complaints should have been included in her personal file is also unfounded.

Pursuant to Regulation 1.7(4):

"A confidential, personal file shall be established for each official of the Organization. The content, establishment procedure and maintenance of this file shall be detailed in the Staff Rules. [...]"

The implementing rules, contained in Rule 1.7.2 – "Content of a personal file", read as follows:

- (1) The personal file established for each official, under the terms of Regulation 1.7(4), shall contain:
 - (a) the personal information required for the management and administration of the career of the official concerned;
 - (b) the documents relating to his recruitment and appointment;
 - (c) the documents relating to his advancement, transfers and promotions;
 - (d) the official documents and assessment reports concerning his competence and conduct during service, together with any comments made by the official concerned with regard to these documents and reports;
 - (e) the official documents relating to his leave;
 - (f) any other documents concerning any official measures taken with regard to the official concerned.
- (2) No mention of the political, philosophical or religious convictions of an official may appear in his personal file.
- (3) The specific structure of the file shall be laid down in a Staff Instruction."

In turn, Staff Instruction No. 2005.05 establishes that each document should be filed into one of the eight sections listed therein (1. Personal information; 2. Recruitment and appointment of the official; 3. Career of the official in the Organization; 4. Assessment; 5. Working hours and leave; 6. Social protection; 7. Discipline and disputes; and 8. Cessation of service), none of which includes harassment complaints and investigation reports.

Specifically, section “7. Discipline and disputes” only concerns “All documents concerning discipline or conflicts between the Organization and the official [...] (e.g.: disciplinary sanctions)”.

Thus, no provision obliged Interpol to include in the complainant’s personal file her harassment complaints and the investigation reports regarding them.

6. The complainant’s contention that the decision on her 3 March 2018 request for review of the warning decision taken on 2 February 2018 should have been included in her personal file is also unfounded, given that pursuant to Rule 12.1.2, warnings must not be recorded in the staff personal file, as already noted in consideration 4 above. As a consequence, a decision on a request for review of a previous warning decision, must not be included in the personal file of the staff member concerned. Moreover, section 7 of Staff Instruction No. 2005.05 mentioned above does not cover replies to requests for review.

7. In her rejoinder, the complainant asks the Tribunal to order the disclosure of the documents listed in consideration 3 above. As stated in considerations 3 to 6, on the one hand, some of these documents have already been provided to her, and, on the other hand, it was lawful not to include the remaining ones in her personal file. Since the present case focuses on the complainant’s personal file, an order for disclosure of these documents would serve no purpose in the current proceedings as they are not relevant to the outcome of this complaint. For the same reason, the Tribunal will not grant the complainant’s request for disclosure of the decision dated 27 February 2018 to terminate the complainant’s employment for medical reasons, extracts of the Staff Manual justifying the “standardized process” applied to her termination, and copies of “inaptitude” medical certificates.

8. As the complaint fails, the complainant is not entitled to any claim for damages or costs. Moreover, there is no evidence of any unreasonable delay in the internal appeal proceedings.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 15 October 2025, Mr Michael F. Moore, President of the Tribunal, Sir Hugh A. Rawlins, Judge, and Ms Rosanna De Nictolis, 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.

MICHAEL F. MOORE

HUGH A. RAWLINS

ROSANNA DE NICTOLIS

RENÉ M. VARGAS M.