

S. (No. 6)

v.

Interpol

141st Session

Judgment No. 5138

THE ADMINISTRATIVE TRIBUNAL,

Considering the sixth complaint filed by Ms E. S. against the International Criminal Police Organization (Interpol) on 28 December 2020 and corrected on 12 January 2021, Interpol's reply of 11 February 2021, the complainant's rejoinder of 7 April 2021 and Interpol's surrejoinder of 30 July 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 contests Interpol's disclosure of a medical report in separate proceedings before the Tribunal.

The complainant joined Interpol in 2016 under a three-year fixed-term contract. 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.

Additional facts regarding the context of this case may be found in Judgment 4509, concerning the complainant's second complaint, and Judgment 4510, concerning her third and fourth complaints. During the proceedings leading to these judgments, Interpol produced as evidence a 24 May 2018 medical certificate from Interpol's staff doctor certifying

that the complainant was permanently unfit for work, based on a 24 April 2018 medical certificate issued by the complainant's treating doctor.

On 20 August 2020, the complainant filed with the Secretary General an internal appeal to challenge the administrative decision of the Organization in its Observations of 23 July 2020 before the Tribunal in the proceedings concerning her second complaint (which culminated in Judgment 4509) "to self-grant the access to [the] medical report dated 24 April 2018 [...] and to void the medical confidentiality without [her] consent".

On 29 September 2020, the Secretary General, referring to Staff Regulation 13.1 and Staff Rule 13.1.3, dismissed the complainant's internal appeal as "inadmissible", on the ground that "a mere Observation by the Organization in the context of legal proceedings pending before the [Tribunal] has no [...] legal effect" and "is therefore not challengeable". This is the impugned decision.

The complainant asks the Tribunal to set aside the impugned decision and to "prohibit the access to the confidential medical report dated 24 April 2018 without [her] consent". Additionally, she claims moral damages, exemplary damages and costs.

Interpol asks the Tribunal to dismiss the complaint as irreceivable. It further requests that an order of costs be made against the complainant.

CONSIDERATIONS

1. The complainant challenges the 29 September 2020 decision whereby the Secretary General dismissed as "inadmissible" her internal appeal against the decision of the Organization allegedly contained in its Observations of 23 July 2020 before the Tribunal in the proceedings concerning her second complaint (which culminated in Judgment 4509) "to self-grant the access to [the] medical report dated 24 April 2018 [...] and to void the medical confidentiality without [her] consent".

2. Among the various receivability issues raised by Interpol, one is decisive and well founded. Interpol contends that, in the present case, there was no challengeable administrative decision.

The Tribunal recalls that, pursuant to Regulation 13.1 of Interpol's Staff Manual, in relevant part:

“Internal procedures for the settlement of disputes

- (1) Any official of the Organization or, where applicable, any other person designated in Article II (6) of the Statute of the Administrative Tribunal of the International Labour Organisation (ILOAT), may:
 - (a) challenge an administrative decision, taken by the Secretary General, which he considers is prejudicial to his interests and conflicts with the terms of his employment agreement or with any pertinent provisions of the present Regulations, of the Staff Rules, or of the Staff Instructions;
 - (b) lodge a claim in writing requesting the Secretary General to take a decision on his case, the grounds for which have not previously been the subject of any decision by the Secretary General. [...]
- (2) A decision may be challenged within the Organization either through the review procedure or directly through the internal appeal procedure. These two procedures cannot be initiated simultaneously with respect to the same decision.”

The Tribunal also recalls that, for the purpose of Article II of the Tribunal's Statute, a reviewable administrative decision is any act by an officer of an international organization which has a legal effect (see Judgments 4846, consideration 10, and 4672, consideration 4). A decision that does not alter the legal situation of staff members is not a decision that adversely affects them, and it cannot, therefore, be challenged before the Tribunal (see Judgments 4846, consideration 10, and 4675, consideration 11). The Tribunal also held that a reply submitted by an organization to an internal appeal body in an internal appeal procedure cannot, in itself, be regarded as a decision (see Judgment 4777, considerations 10 and 11).

3. In the present case, the complainant alleges that the Observations submitted by Interpol on 23 July 2020 before the Tribunal in the proceedings concerning her second complaint (which culminated in Judgment 4509) contained a decision “to self-grant the access to [the]

medical report dated 24 April 2018 [...] and to void the medical confidentiality without [her] consent”.

The Tribunal holds that – by analogy with the case decided in Judgment 4777 cited in consideration 2 above – legal defenses presented to the Tribunal by an organization, such as replies, surrejoinders, or further written submissions, cannot be construed as administrative decisions. These are communications addressed to the Tribunal by legal representatives or legal staff of the organizations concerned. They are not administrative decisions adopted by the officer-in-charge following required procedures and formally addressed to the staff concerned.

4. As the complaint is irreceivable, all the complainant’s claims are rejected.

5. Interpol submits a counterclaim for costs, alleging that the complaint constitutes an abuse of process by the complainant.

In light of its case law, the Tribunal will avail itself of the possibility to order a complainant to pay costs only in exceptional situations. Indeed, it is essential that the Tribunal should be open and accessible to international civil servants without the dissuasive and chilling effect of possible adverse awards of that kind (see Judgments 4798, consideration 12, and 4143, consideration 7).

The Tribunal considers that not only is the present complaint irreceivable, it is also vexatious and frivolous, aimed, as it appears, at multiplying litigation, as the issue of breach of confidentiality had already been raised by the complainant before the Tribunal in the proceedings concerning her second, third and fourth complaints (which culminated in Judgments 4509 and 4510). The complainant should be ordered to pay Interpol 1,000 euros.

In conclusion, the complaint will be dismissed.

DECISION

For the above reasons,

1. The complaint is dismissed.
2. The complainant shall pay Interpol costs in the amount of 1,000 euros within sixty days of the date of the public delivery of this judgment.

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.