

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

L.
v.
WHO

141st Session

Judgment No. 5158

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr H. L. against the World Health Organization (WHO) on 1 June 2024;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant is a former WHO official who was dismissed for serious misconduct by a decision of 25 January 2023. His internal appeal against that decision was examined by WHO's Global Board of Appeal (GBA), which informed him on 5 January 2024 that it had submitted its report to the Director-General that same day. On 28 March 2024 the complainant wrote to the Director-General asking to be provided with the final decision on his appeal. Referring implicitly to paragraph 670 of the GBA Rules of Procedure, he pointed out that the Director-General ought to have informed him of his final decision within sixty calendar days following receipt of the GBA's report. On 2 April 2024 the Administration replied that every effort was being made to bring the appeal process to a conclusion in the shortest possible time and "request[ing] [his] indulgence for a limited period". The

complainant's counsel followed up on 17 May 2024, asking when a final decision could be expected. On 1 June 2024, having not yet received the final decision on his appeal, the complainant filed the present complaint, impugning what he considered to be an implied decision to reject his appeal against the termination of his appointment.

2. Article VII, paragraph 1, of the Statute of the Tribunal states that “[a] complaint shall not be receivable unless the decision impugned is a final decision and the person concerned has exhausted such other means of redress as are open to her or him under the applicable Staff Regulations”. However, the Tribunal has accepted that where there is an inordinate and inexcusable delay in the internal appeal procedure, the official concerned must be considered to have exhausted the internal means of redress (see, for example, Judgment 3947, consideration 4).

3. Under the Tribunal's case law, an argument based on an inordinate and inexcusable delay may not be accepted unless a complainant shows that the requirement to exhaust the internal remedies has had the effect of paralysing the exercise of her or his rights. It is only where the competent bodies are not able to determine an internal appeal within a reasonable time, depending on the circumstances, that she or he is permitted to come directly to the Tribunal. A complainant can make use of this possibility only where she or he has done her or his utmost, to no avail, to accelerate the internal proceedings and where the circumstances show that the appeal body was not able to reach a decision within a reasonable time (see Judgments 4268, considerations 10 and 11, 4200, consideration 3, or 3558, consideration 9).

The fact that the Organization did not respect a time limit set out in its own rules does not mean that the internal proceedings were necessarily paralysed (see Judgment 3889, consideration 3).

4. In the present case, as noted earlier, the opinion of the GBA was submitted to the Director-General on 5 January 2024. It is true that, according to paragraph 670 of the GBA Rules of Procedure, the Director-General ought to have communicated his final decision to the

complainant within the following sixty calendar days, that is to say by 5 March 2024. He did not do so and the complainant filed his complaint with the Tribunal on 1 June 2024. The complainant had taken steps to expedite the internal appeal process, by sending two reminders to the Director-General regarding the final decision on his appeal. Nevertheless, in the circumstances of this case, the period of approximately three months that elapsed between the expiry of the sixty-day time limit provided for in the GBA's Rules of Procedure and the filing of the complaint does not, in the Tribunal's view, constitute an inordinate and inexcusable delay within the meaning of the case law cited above.

5. It follows that the complainant cannot be regarded as having exhausted the internal remedies available to him. His complaint is clearly irreceivable and will therefore be summarily dismissed in accordance with the procedure set out in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 13 November 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.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

RENÉ M. VARGAS M.