

118th Session

Judgment No. 3381

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr G. K. against the International Organization for Migration (IOM) on 17 April 2012 and corrected on 18 May 2012;

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

Having examined the written submissions;

CONSIDERATIONS

1. The complainant purports to impugn a decision of 13 March 2012 by the Director General of IOM.

2. A summary of the background, as the complainant presents it, is that in 2011 he expressed his interest in the position of “Project Management Expert Consultant” with the IOM Mission in Kosovo. His application was unsuccessful. He subsequently met with a member of the Administration of the Mission (“the Official”) on 31 January 2012. The Official “actually manifested a clear and absolute intent to ‘hire and employ’” him as soon as possible in the position of “Team Leader, [...] European Union, Return and Reintegration Phase III, at the IOM Mission in Kosovo”. The meeting place was a restaurant.

3. The complainant's understanding of the conversation at the meeting was that he had only to reply to an e-mail to be sent by the Official as confirmation that he was available to commence actual work in the post of Team Leader on or around the week of 5 February 2012. The Official sent him an e-mail with application forms for the post attached. The complainant responded confirming his availability. As far as the complainant is concerned, his conversation with the Official, the e-mail that the Official sent him and his response confirming his availability created a 'pure 'offer of employment' and a 'binding contract' in its '[s]pirit and [l]etter' [...]'.

4. The complainant states that he was surprised that when, on 3 February 2012, he met the Chief of Mission in the presence of the Official with whom he thought he had an agreement to commence employment with the Mission, the discussion concerned a third post of "Project Developer". His perception was that this third post was financially disadvantageous for him and a "dishonest offer". However, he was asked to suggest a salary which he wished to receive in that post. He agreed to do so and made a suggestion, by way of an e-mail. He received no response to his e-mail.

5. The focus of his complaint, however, is that IOM agreed to appoint him "as a candidate for a Team Leader position [...] and then broke th[at] agreement, without any explanation or a sound rationale".

6. As there was no meeting of minds between the parties concerning an appointment and the complainant did not become a staff member of IOM and, therefore, not an official for the purpose of Article II of the Tribunal's Statute, the complaint is clearly irreceivable. In the foregoing premises, the complaint must be summarily dismissed because it is irreceivable.

DECISION

For the above reasons,
The complaint is summarily dismissed.

In witness of this judgment, adopted on 16 May 2014, Mr Claude Rouiller, Vice-President of the Tribunal, Ms Dolores M. Hansen, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 9 July 2014.

CLAUDE ROUILLER
DOLORES M. HANSEN
HUGH A. RAWLINS
DRAŽEN PETROVIĆ