

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

G.

v.

IFAD

124th Session

Judgment No. 3856

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms F. G. against the International Fund for Agricultural Development (IFAD) on 17 September 2014 and corrected on 17 December 2014, IFAD's reply of 16 June 2015, the complainant's rejoinder of 12 October 2015 and IFAD's surrejoinder of 22 January 2016;

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 challenges the decision to downgrade her position.

In 2011, as part of a human resources reform programme, IFAD decided to have a job audit conducted by external consultants who submitted their findings on 22 April 2012.

On 5 October 2012 the President of IFAD published Bulletin PB/2012/13 setting out *ad hoc* procedures for implementing the job classification decisions resulting from the audit. On 12 October he published Bulletin PB/2012/14 introducing an *ad hoc* review and appeals procedure for challenging those decisions. It had two stages: a Mandatory Administrative Review, the purpose of which was to check the accuracy of the job descriptions used to classify positions, then an appeal to the

ad hoc Reclassification Appeals Committee (hereinafter referred to as “the *ad hoc* Committee”), which had exclusive jurisdiction to review appeals submitted by staff members against a classification decision taken at the end of the administrative review. The *ad hoc* Committee had to present its recommendations to the President for a final decision.

At a meeting on 12 October 2012, the complainant, who held grade G-7, was informed that her position had been downgraded to G-6. She received confirmation of this reclassification in an email of 18 October. On 25 October she requested an administrative review of this decision. On 23 November 2012 the downgrading of her position was confirmed.

On 27 February 2013 the complainant submitted an appeal to the *ad hoc* Committee, which issued its report on 11 December 2013. As it found no evidence of a procedural flaw or abuse of authority, nor any evidence suggesting that the reclassification decision had been arbitrary, it recommended that the appeal should be dismissed. However, noting that the complainant had not been informed of the reasons for that decision, it recommended that the Human Resources Division should provide her with the job description used for the reclassification of her position and that it should compare it with other documents drawn up in the course of the procedure in order to determine whether any discrepancy might have led to a different reclassification result.

The complainant was informed by a letter of 26 February 2014 that the President had decided to endorse the *ad hoc* Committee’s recommendations. On 12 March 2014, for the sake of transparency, the President shared the *ad hoc* Committee’s report with the complainant, although that was not required by Bulletin PB/2012/14, and confirmed that, as she had been informed by the email of 5 March, she had 90 days, as from the date on which she was notified of the decision of 26 February 2014, to file a complaint with the Tribunal in order to impugn it.

On 11 June 2014 the complainant filed a complaint with the Tribunal. On 19 June the Director of the Human Resources Division reported to the President pursuant to the latter’s decision of 26 February. He concluded that there was no discrepancy in grade between the different documents which he had examined. As the complainant considered that the

decision of 26 February was not final, on 23 July she informed the Registrar of the Tribunal that she withdrew her complaint.

On 4 September 2014 the complainant wrote to the Director of the Human Resources Division, complaining that she had not received the complete background documentation pertaining to the reclassification of her position and asking to be notified of the President's final decision as soon as possible. On 30 September 2014 she received the reply that she had been provided with the documentation in question at a meeting held on 11 June and that no other decision was expected or required from the President.

In the meantime, on 17 September 2014, the complainant had filed the present complaint with the Tribunal, in which she stated that she was challenging the implied decision to reject her "claim" of 19 June 2014. On being invited to correct her complaint form, which did not meet the requirements of Article VII, paragraph 3, of the Statute of the Tribunal, she asked how to fill in section 3 of the form when, as in her case, "the competent authority for taking the final decision has not communicated any express decision [...] after the review and the report on the case which it requested from its services in accordance with the opinion of the advisory internal appeal body". As she did not receive a reply, she sent back the complaint form, entering "N/A" in section 3, "because the implied impugned decision did not arise" in the circumstances contemplated by Article VII, paragraph 3, of the Statute of the Tribunal. When consulted on the procedure to follow, the President of the Tribunal noted the highly unusual manner in which the complainant had filled in section 3 of the complaint form, considered that it was not incumbent upon either the Registry or the President of the Tribunal to identify the impugned decision and decided that the complaint should be forwarded to IFAD as it stood.

In her complaint, the complainant asks the Tribunal to set aside the "implied rejection", the "decisions" of 26 February and 30 September 2014, as well as the decisions of 18 October and 23 November 2012, to order IFAD to conduct a new audit of her position and to redress the moral and material injury she has allegedly suffered. Lastly, she requests the payment of costs in the amount of 6,000 euros.

IFAD asks the Tribunal to dismiss the complaint as irreceivable, since it is time-barred and the complainant has not specified the decision which she impugns before the Tribunal. Subsidiarily, it submits that the complaint is unfounded.

CONSIDERATIONS

1. In IFAD's opinion, the complaint is irreceivable because it does not satisfy the conditions of Article VII, paragraphs 1 and 2, of the Statute of the Tribunal. It considers that the final decision is the decision of 26 February 2014 of which the complainant was notified on 28 February 2014. The complainant therefore had until 28 May 2014 to file her complaint with the Tribunal.

2. The complainant submits that IFAD's objection to receivability is "irreceivable" with regard to the alleged non-compliance with Article VII, paragraph 1, of the Statute of the Tribunal. In her view, the letter of 26 February 2014 cannot be regarded as a final decision. The complainant adds that, since she acted within the 90-day time limit by challenging the "implied rejection of her appeal resulting from the President's silence on the report of 19 June 2014", her complaint must be declared receivable.

3. The Tribunal notes that Article VII of its Statute requires complainants or, if appropriate, their counsel and/or their representatives to identify in the complaint form the decision which they are impugning.

4. In the instant case, the complainant has not identified the impugned decision in the complaint form, which she was asked to correct by the Registry under Article 6 of the Rules of the Tribunal. This failure to identify the decision perforce renders the complaint irreceivable in accordance with the aforementioned Article VII of the Statute of the Tribunal.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 2 May 2017, Mr Claude Rouiller, President of the Tribunal, Mr Giuseppe Barbagallo, Vice-President, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 28 June 2017.

(Signed)

CLAUDE ROUILLER GIUSEPPE BARBAGALLO FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ