

L. (No. 11)

v.

ICC

127th Session

Judgment No. 4126

THE ADMINISTRATIVE TRIBUNAL,

Considering the eleventh complaint filed by Mr C. L. against the International Criminal Court (ICC) on 18 July 2018;

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. In March 2018 the complainant, a former staff member of the ICC who had separated from service in October 2015, filed a formal harassment complaint with the Prosecutor of the Court against Ms F., the President of the Staff Union Council. The complainant considered that by sending an email to other members of the Staff Union Council explaining why she had “grave concerns” about engaging in discussions with him concerning the implications of pending appeals in which he was representing former staff members, Ms F. had committed unsatisfactory conduct and defamation.

2. The Prosecutor rejected the complaint on 1 May 2018, considering that it was time-barred and hence irreceivable pursuant to Section 6.6 of Administrative Instruction ICC/AI/2005/005 on “Sexual

and others forms of Harassment”. The complainant impugns that decision in his eleventh complaint before the Tribunal.

3. The complaint is irreceivable. Although Section 4 of Administrative Instruction ICC/AI/2005/005 states that it applies to former staff members, it is firmly established in the case law that the rules governing the receivability of complaints filed with the Tribunal are established exclusively by its own Statute (see, for example, Judgment 3889, under 3). Pursuant to Article II, paragraph 5, of its Statute, the Tribunal is competent to hear complaints alleging “non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations”. In the present case, the Tribunal finds that the complainant, a former official of the ICC, does not allege any breach of his terms of appointment or of ICC Staff Rules applicable to him while he was still an ICC official. His complaint, which does not fall within the competence of the Tribunal, is therefore clearly irreceivable and must be summarily dismissed in accordance with the procedure provided for 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 9 November 2018, Mr Giuseppe Barbagallo, President of the Tribunal, Sir Hugh A. Rawlins, Judge, and Mr Yves Kreins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 6 February 2019.

GIUSEPPE BARBAGALLO

HUGH A. RAWLINS

YVES KREINS

DRAŽEN PETROVIĆ