

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

F.
v.
ICC

120th Session

Judgment No. 3549

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr B. F. against the International Criminal Court (ICC) on 9 October 2014;

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, who was engaged by the United Nations between 1994 and 2010, applied in 2013 for a General Service position with the ICC. He was interviewed, contacted several times regarding details of his future employment and invited to undergo a medical examination. He travelled to The Hague at the end of July 2014 and underwent the medical examination on 4 August. Thereafter, he remained in The Hague, staying in hotel accommodation, until mid-September, as he expected that the ICC would grant him a contract and that he would soon have to commence working there. However, on 9 September 2014 he received an email informing him that the ICC was unable to consider him for the post and providing some explanation for this decision.

2. In his complaint to the Tribunal the complainant impugns the decision of 9 September 2014 and claims, inter alia, the daily subsistence allowance for the duration of his stay in The Hague, material damages and moral damages. However, it is unnecessary to dwell on the arguments put forward by the complainant in support of these claims, because the Tribunal does not have jurisdiction to hear his complaint.

3. Pursuant to Article II, paragraph 5, of its Statute, “[t]he Tribunal shall [...] be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials” (emphasis added). At no point in time did the complainant have the status of an official of the ICC. As the Tribunal has often recalled in its case law, external candidates for employment and persons who have not concluded a contract of employment with an organisation that has recognised the jurisdiction of the Tribunal are not within the latter’s jurisdiction (see, for example, Judgments 803, under 3, 1554, under 10, 1964, under 4, and 3382, under 4).

4. It follows that the complaint is clearly irreceivable and must therefore 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 8 May 2015, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 30 June 2015.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ