

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**R.**  
**v.**  
**IOM**

**126th Session**

**Judgment No. 4056**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms A. R. against the International Organization for Migration (IOM) on 9 September 2017 and corrected on 14 November 2017;

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. On 9 September 2017 the complainant filed a complaint impugning a decision of 17 March 2017 received on 11 July 2017.

2. The complainant, who had commenced employment with IOM in September 2006, was summarily dismissed by the Director General in accordance with Staff Regulation 10(a) and (b). This decision was notified to the complainant by the Chief of Mission, IOM Turkey, in a letter dated 19 October 2016. According to the complainant, that letter was delivered to her only on 18 November 2016. She filed a Request for Review in January 2017. By a letter of 17 March 2017 the IOM Regional Director informed the complainant that he considered her Request for Review to be manifestly time-barred and, alternatively,

without merit. The Regional Director specifically drew the attention of the complainant to paragraph 12 of Instruction 217, entitled “Request for Review and Appeal to the Joint Administrative Review Board (JARB)” (IN/217), for guidance on the further means of redress. The complainant, however, considered this decision to be a final decision and impugned it before the Tribunal.

3. Paragraph 12 of IN/217 reads as follows:

“If the response by the Administration to the Request for Review is unsatisfactory to the staff member, or if the Administration does not respond to the Request for Review within 60 calendar days of receipt thereof, the staff member may submit an Appeal in accordance with paragraphs 13–20 of this Instruction.”

4. Paragraphs 13 to 20 of IN/217 deal with appeals against the rejection by the Administration of a Request for Review. They provide that an appeal must be made within 30 calendar days of receipt of the response of the Administration to the Request for Review, that it must be submitted to the Director General through the Director of the Human Resources Management Division (HRMD), with a copy to the Chief of Staff, and that it must be submitted in writing, by email or in hard copy. The filing of an appeal is a prerequisite to filing a complaint with the Tribunal, as set forth in Regulation 11.3 of the Unified Staff Regulations and Rules.

5. A staff member of an international organisation cannot of her or his own initiative evade the requirement that internal remedies must be exhausted prior to filing a complaint with the Tribunal (see Judgment 3458, consideration 7, as well as Judgments 3190, under 9, and 2811, under 10 and 11, and the case law cited therein). As the complainant failed to lodge an appeal, she impugns before the Tribunal a decision which cannot be considered as a final decision within the meaning of Article VII, paragraph 1, of the Tribunal’s Statute. Accordingly, the complaint is clearly irreceivable and must 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 18 May 2018, Mr Giuseppe Barbagallo, 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 26 June 2018.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

HUGH A. RAWLINS

DRAŽEN PETROVIĆ