

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**M., M., R. and W.**

**v.**

**FAO**

**129th Session**

**Judgment No. 4270**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaints filed by Ms J. M. and Mr P. M. against the Food and Agriculture Organization of the United Nations (FAO) on 19 July 2019;

Considering the complaints filed by Ms Z. R. and Ms R. W. against the FAO on 26 July 2019;

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. The complainants are former officials of the World Food Programme (WFP), an autonomous joint subsidiary programme of the United Nations and the FAO, whose employment was terminated as a result of the abolition of their posts. In their complaints, they allege that they performed functions of a higher level than those of the posts they occupied and they claim compensation for this as well as reinstatement to the WFP.

2. As the complaints, which contain almost identical briefs, raise the same arguments and seek the same relief, it is convenient that they be joined to form the subject of a single judgment.

3. The complainants are not impugning an express administrative decision concerning them. Instead, they rely on Article VII, paragraph 3, of the Tribunal's Statute, which permits a complainant to have recourse to the Tribunal "[w]here the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it". However, the same paragraph sets forth a deadline for filing a complaint with the Tribunal. Once the sixty-day period allowed for the taking of the decision by the Administration has expired, the complaint must be filed within the following ninety days. As the Tribunal clarified in Judgments 456 and 2901,

"the purpose of [the] provisions [of Article VII, paragraph 3, of its Statute] is twofold. Their first aim is to enable an official to defend [her or his] interests by going to the Tribunal when the Administration has failed to take a decision. Their second aim is to prevent a dispute from dragging on indefinitely, which would undermine the necessary stability of the parties' legal relations. It follows from these twin purposes that, if the Administration fails to take a decision on a claim within sixty days, the person submitting it not only can, but must refer the matter to the Tribunal within the following ninety days, i.e. within 150 days of [her or his] claim being received by the organisation, otherwise his or her complaint will be irreceivable."

4. As the complainants indicated in their respective complaint forms that their claim which remained unanswered by the WFP was made on 17 October 2018, the period of time provided for in Article VII, paragraph 3, of the Statute (150 days in total) ended several months before they filed their complaints with the Tribunal. It follows that their complaints filed in July 2019 are time-barred and clearly irreceivable. They 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 complaints are dismissed.

In witness of this judgment, adopted on 13 November 2019, Mr Patrick Frydman, President of the Tribunal, Ms Fatoumata Diakité, Judge, and Mr Yves Kreins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 10 February 2020.

PATRICK FRYDMAN

FATOUMATA DIAKITÉ

YVES KREINS

DRAŽEN PETROVIĆ