

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

K.
v.
ICCO

130th Session

Judgment No. 4326

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr H. C.-A. K. against the International Cocoa Organization (ICCO) on 13 February 2020;

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. By letter dated 17 August 2017, the Executive Director of the ICCO – an organisation based in Abidjan, Côte d'Ivoire – informed the complainant that he had decided not to confirm his appointment at the end of his probationary period on 19 August 2017. At that time, the Organization's Staff Regulations and Staff Rules did not provide for any internal appeal mechanism. In September 2018 the complainant brought the case before a national court.

2. On 20 August 2019 the Executive Director of the ICCO sent a request for recognition of the jurisdiction of the Tribunal to the Director-General of the International Labour Office (hereinafter "the ILO"). At its 337th Session, held from 24 October to 7 November 2019, the ILO's Governing Body approved that recognition with effect from 30 October 2019.

3. On 13 February 2020 the complainant filed this complaint with the Tribunal, impugning the decision of 17 August 2017.

4. Under Article II, paragraph 5, of its Statute, the Tribunal may hear a complaint only when the international organisation concerned has addressed a declaration recognising the Tribunal's jurisdiction to the ILO's Director-General and that declaration has been approved by the ILO's Governing Body. Although, as stated in consideration 2 above, these requirements have been met in this case, the decision impugned by the complainant was taken when the ICCO had not yet recognised the Tribunal's jurisdiction, which, moreover, it did not do until well after the expiry of the "ninety days after the complainant was notified of the decision impugned" in which complaints must be filed pursuant to Article VII, paragraph 2, of the Statute of the Tribunal.

5. Referring to Judgments 2582 and 2798 of the Tribunal, the complainant contends that his complaint is receivable, even though it was filed after that time limit had lapsed.

6. For the reasons stated in Judgment 4325, also delivered in public this day, the complaint is clearly irreceivable because the Tribunal does not have jurisdiction to hear it. The Tribunal will therefore dismiss it summarily in accordance with the procedure provided for in Article 7 of its Rules.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 13 July 2020, Mr Patrick Frydman, President of the Tribunal, Ms Dolores M. Hansen, Vice-President of the Tribunal, and Mr Giuseppe Barbagallo, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 24 July 2020 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN DOLORES M. HANSEN GIUSEPPE BARBAGALLO

DRAŽEN PETROVIĆ