

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

F.
v.
UNESCO

133rd Session

Judgment No. 4494

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr A. F. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 30 April 2021 and corrected on 15 June 2021;

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 complainant indicates on the complaint form that UNESCO failed to take a decision within sixty days on a claim that he notified to it on 28 June 2020 and, accordingly, he filed his complaint on the basis of Article VII, paragraph 3, of the Statute of the Tribunal. The complaint was filed on 30 April 2021.

2. The Tribunal notes that on 15 March 2021 the Assistant Director-General for Administration and Management responded to a message sent by the complainant indicating that he would ask the relevant services to review the eligibility period and eventual processing for the Special Post Allowance claimed by the complainant.

3. Article VII, paragraph 3, sets forth very clearly the period within which a complaint based on an unanswered claim must be filed with the Tribunal:

“Where the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it, the person concerned may have recourse to the Tribunal and her or his complaint shall be receivable in the same manner as a complaint against a final decision. The period of ninety days provided for by the last preceding paragraph shall run from the expiration of the sixty days allowed for the taking of the decision by the Administration.”

4. As the Tribunal recalled in Judgments 4174, consideration 4, and 3975, consideration 5, for example, it is clearly established in the case law that where the Administration takes any action to deal with a claim, this step in itself constitutes a “decision upon [the] claim” within the meaning of Article VII, paragraph 3, of the Statute, which forestalls an implied rejection that could be referred to the Tribunal. Moreover, firm precedent has it that when an organisation forwards a claim before the expiry of the prescribed period of sixty days to the competent authority, this step in itself constitutes “a decision upon [the] claim” within the meaning of this provision (see, on these points, Judgments 532, 762, 786, 2681, 3034 and 3956). In the present case, it is obvious that the complainant’s claim has been addressed by the Assistant Director-General and forwarded to the competent services.

5. In light of the above, the complaint is clearly irreceivable under Article VII, paragraph 3, of the Statute and must therefore 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 12 November 2021, Mr Michael F. Moore, President of the Tribunal, Mr Patrick Frydman, Vice-President of the Tribunal, and Ms Rosanna De Nictolis, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 27 January 2022 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE

PATRICK FRYDMAN

ROSANNA DE NICTOLIS

DRAŽEN PETROVIĆ