

NINETY-SIXTH SESSION

Judgment No. 2273

The Administrative Tribunal,

Considering the second complaint filed by Mr M. J. against the International Criminal Police Organization (Interpol) on 12 September 2002 and corrected on 9 October, the Organization's reply of 20 December 2002, the complainant's rejoinder of 21 February 2003 and Interpol's surrejoinder of 17 April 2003;

Considering the interlocutory order in Judgment 2248 delivered on 16 July 2003;

Having examined and heard the recordings of the discussions of the Executive Committee at its 131st session and the full transcript thereof, in accordance with the decision in Judgment 2248;

Considering also the notes taken by the Acting Legal Counsel at the 132nd session of the Committee and the minutes of that session;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to order hearings, for which neither party has applied;

CONSIDERATIONS

1. The facts of the present dispute are set out in the Tribunal's Judgments 2247 and 2248, to which reference should be made.

The complainant challenges the decision of 19 August 2002, by which the Secretary General of the Organization rejected his request for review of a decision of 13 December 2001 imposing on him a sanction in the form of a written warning with a transfer not resulting in downgrading. The latter decision was revoked by the Secretary General's decision of 18 April 2002.

2. The complainant asserts that patently mistaken conclusions have been drawn from the evidence insofar as, in his view, the second fault of which he was accused by the Secretary General was unfounded, contrary to the findings of the Joint Appeals Committee. He considers that he has not violated any Executive Committee decision obliging him to abstain from informing the Chairman of the Commission for the Control of Interpol's Files of the non-renewal of his term until after his speech to the General Assembly. He notes that the Joint Appeals Committee did not specify which recordings of the Executive Committee discussions it had listened to in order to assert that the latter had really taken the decision he is alleged to have breached.

3. Considering that it would be useful to have access to the recordings of the discussions of the Executive Committee at its 131st and 132nd sessions, and to the full transcript thereof, before ruling on this case, the Tribunal decided in Judgment 2248 to order the Organization to produce the said evidence.

4. The defendant, in producing the requested evidence, took the liberty of making comments which the Tribunal considers inopportune, impertinent and all the more unwarranted for the fact that it was the defendant itself which, in its reply to the complaint, stated that the evidence in question would be held at the Tribunal's disposal.

5. The Tribunal considers that the evidence produced by the defendant shows that it had indeed been decided in principle at the 131st session of the Executive Committee that the Chairman of the Commission for the Control of Interpol's Files should not be informed of the non-renewal of his term until after he had made his statement before the General Assembly. It cannot therefore be said that clearly mistaken conclusions were drawn from the evidence, so that the plea is unfounded.

6. The complainant maintains that the sanction imposed on him was disproportionate in relation to the alleged fault.

The sanction in the form of a written warning with a transfer not resulting in downgrading, which, according to the complainant himself, is the least severe provided for in Article 41 of the Staff Regulations, cannot be considered to be disproportionate in relation to the fault committed. Furthermore, the complainant fails to show that this sanction, which was in the event withdrawn, was aimed at and had the effect of harming his reputation and dignity by assigning him to a post under the hierarchical authority of a person whom he had previously supervised.

7. It may be concluded from the above, without any need to disclose the submitted evidence to the complainant, who did not require it, that the complaint is unfounded and must therefore be dismissed.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 13 November 2003, Mr James K. Hugessen, Vice-President of the Tribunal, Mr Jean-François Egli, Judge, and Mr Seydou Ba, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 4 February 2004.

(Signed)

James K. Hugessen

Jean-François Egli

Seydou Ba

Catherine Comtet