

NINETY-SEVENTH SESSION

Judgment No. 2371

The Administrative Tribunal,

Considering the complaint filed by Mr G. M. S. against the International Labour Organization (ILO) on 8 April 2003 and corrected on 5 May, the Organization's reply of 11 August, the complainant's rejoinder of 15 October, the ILO's surrejoinder of 15 December, the complainant's further submissions of 29 December 2003 and the Organization's comments thereon of 27 February 2004;

Considering Articles II, paragraph 1, 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;

Considering that the facts of the case and the pleadings may be summed up as follows:

A. The complainant, a British national born in 1948, joined the International Labour Office – the ILO's secretariat – in 1975. Since June 1999 he has held the position of Director of the InFocus Programme on Socio-Economic Security at grade D.1.

In November 2001, one of the complainant's subordinates – Ms L. – submitted a grievance to the Ombudsperson in accordance with Article 13.15 of the Staff Regulations of the ILO, alleging that the complainant had subjected her to moral harassment. The Ombudsperson conducted an investigation and concluded, in a report dated 2 April 2002, that of the four specific allegations of harassment on which her investigation had focused, two were well-founded but the other two were not supported by the evidence. The Ombudsperson's report ended with a series of recommendations which, in the absence of any agreement between the complainant and Ms L., were not implemented. Ms L. then submitted her grievance to the Joint Panel in accordance with Article 13.16 of the Staff Regulations.

Article 13.15 of the Staff Regulations includes the following provisions concerning the content and disclosure of the Ombudsperson's report:

“6. The Ombudsperson's report shall detail the outcome of the referral or of the process, and shall, if possible, make proposals for resolution. Otherwise, the report shall set out the reasons why resolution was not possible. Copies of the report shall be communicated to:

- (a) the claimant(s);
- (b) the respondent(s); and
- (c) the applicable line manager [...].

[...]

8. Copies of the Ombudsperson's proposals for resolution shall be communicated to any person called upon to take action to implement the proposals, including relevant officials of the Office.

9. The Ombudsperson and all persons who receive a copy of his or her report have a duty to safeguard its confidentiality.”

The Ombudsperson gave copies of her report to Ms L., to the complainant and to the applicable line manager. She also submitted one to the Director-General, the Chairperson of the Reports Board, the Chairperson of the Joint

Panel, the Office of the Legal Adviser, the Chiefs of two units in the Human Resources Development Department and the Chairperson of the Staff Union Committee.

The complainant considered that the way in which the Ombudsperson had conducted her investigation was unacceptable in several respects, and that certain statements concerning him which appeared in her report were libellous. In April 2002 he submitted an extensive rebuttal of the report to his line manager and to the Counsellor to the Director-General.

In a letter dated 6 May 2002 addressed to the Ombudsperson, the complainant's line manager drew her attention to three statements in her report which, in the Office's view, appeared to be defamatory. He emphasised that, if she agreed with his analysis of those statements, she "would certainly wish to take the necessary remedial action" vis à vis the complainant, other recipients of the report and, if applicable, the Joint Panel. The Ombudsperson did not reply to this letter. Nor did she take the proposed remedial action, but a copy of the letter was given to the complainant by his line manager.

In June and July 2002 the complainant, who was concerned that breaches of confidentiality had occurred in the communication of the Ombudsperson's report, sent several minutes to the Office asking that immediate action be taken to protect his reputation and dignity, failing which he requested that his immunity from legal process and that of the Ombudsperson be lifted by the Director-General in order that he might take legal action to clear his name. In particular, he objected to a decision by the Reports Board, based on a recommendation made in the Ombudsperson's report, to engage an outside expert to assess Ms L.'s work for the purposes of the latter's probationary performance appraisal.

The complainant was informed by the Office of the Legal Adviser that his claims concerning the Ombudsperson's investigation could be raised in the proceedings initiated by Ms L. before the Joint Panel, and that the Director-General was not willing to lift his or the Ombudsperson's immunity "in a case involving work-related issues in the Office". The complainant submitted his own grievance to the Panel on 5 September 2002, contesting the Ombudsperson's investigation and report as well as "subsequent actions and inactions by the Office".

The Joint Panel issued its findings concerning Ms L.'s grievance on 7 October 2002. The Panel unanimously held that it did not have sufficient evidence to infer that the complainant's general conduct had amounted to harassment. It found, however, serious staff management failures on his part. The Panel recommended, inter alia, that Ms L. be transferred to a "post suited to her profile" and that the complainant be assigned a position where "his manifest abilities as a researcher of great skill and international reputation [would be] untrammelled by preoccupations relating to human resources management".

By a letter of 18 November 2002 the Director of the Office of the Director-General informed the complainant that since the Joint Panel had determined that his behaviour towards Ms L. did not constitute harassment, the Office did not require any action to be taken in respect of the harassment complaint insofar as he was concerned.

On 10 January 2003 the Joint Panel provided the Director-General with its summary conclusions on the complainant's grievance, declining jurisdiction. Having received no decision from the Director-General, the complainant impugns the implicit rejection of his grievance.

Subsequently, by a letter of 5 March 2003 addressed to the Director-General, the complainant made proposals for an amicable settlement of his grievance, to which he received no response. That same day, he sent a further letter to the Director-General, protesting against a breach by the Ombudsperson of "her obligation of impartiality and of her express duty of confidentiality" arising from an e-mail she sent to a lawyer representing claimants in a different ILO harassment case. He asked the Director-General to initiate disciplinary measures. On 6 March 2003, considering that a "public smear campaign" against him was being pursued by friends of Ms L., he wrote to the Director-General calling for an investigation into this matter, followed by disciplinary proceedings against Ms L. in the event that she was found to have acted in breach of her obligations. No action was taken by the Office in response to these requests.

B. As a preliminary matter, the complainant asks the Tribunal to conclude that his complaint is receivable *ratione materiae*. He submits that since the Joint Panel declined jurisdiction and the Director-General is unwilling to lift his immunity from legal process, he has been denied a remedy for the injury suffered.

As regards the merits of his case, the complainant submits, first, that the Ombudsperson failed to respect her mandate. Not only did she proceed to adjudicate instead of mediating, but having chosen that course of action she disregarded the procedural safeguards that are essential to any adjudication procedure, notably with regard to the gathering of evidence.

The complainant argues that the Ombudsperson disregarded the requirements of due process by failing to observe the time-limits for the procedure, extending the scope of her investigation to matters unrelated to the allegations contained in Ms L.'s grievance and ignoring the principle *audi alteram partem*.

He also contends that the Ombudsperson included in her report unsubstantiated defamatory statements, such as an allegation of harassment by an anonymous informer.

The complainant submits that the Ombudsperson violated her duty of confidentiality by communicating her report to persons other than those provided for in Article 13.15 of the Staff Regulations. In his view, had she respected her mandate the matter would have remained amongst the parties, and the report should simply have indicated why resolution had not been possible. He also accuses the Ombudsperson of airing her views concerning his conduct in an e-mail communication to a lawyer involved in a different ILO harassment case.

Lastly, he complains that the Office failed to take appropriate corrective action in response to his repeated requests that his dignity and reputation be protected. He submits that apart from his line manager's letter of 6 May 2002 to the Ombudsperson and the Office's reminders to her and to the recipients of the report of their duty of confidentiality, no action has been taken. Referring to the case law, he describes the Office's inaction as a violation of its duty of care and consideration.

The complainant asks the Tribunal to order the defendant to: address a communication to all recipients of the Ombudsperson's report, informing them of the Joint Panel's subsequent finding that Ms L.'s allegations of harassment were not substantiated, refuting the defamatory statements in the Ombudsperson's report and calling on all recipients other than Ms L. and the applicable line manager to return their copies of the report for destruction; permit him to apprise persons who have been informed of Ms L.'s allegations of the conclusions of the Joint Panel; take measures to protect him against the "campaign of vilification" pursued against him outside the Office; and make copies of relevant communications received from outside the ILO available to the Tribunal and to himself. He also claims moral damages and a total of 21,000 Swiss francs in costs incurred before the Ombudsperson, the Joint Panel and the Tribunal.

C. In its reply the Organization contests the receivability of the complaint as regards the alleged procedural defects in the Ombudsperson's handling of Ms L.'s grievance, on the grounds that they did not result in any real injury for the complainant. It also considers that his claims based on subsequent developments, namely the campaign of vilification and the Ombudsperson's e-mail to a lawyer, are irreceivable because they have not been the subject of an internal appeal.

The ILO points out that the provisions governing harassment-related grievances confer on the Ombudsperson a wider role than that of intermediary between the parties and place a significant emphasis on investigation. It fails to see why the complainant criticises the Ombudsperson for not complying with rules applicable to adjudication procedures, given that he agrees that her role is not to adjudicate.

What the complainant views as an extension of the investigation to matters beyond the scope of the grievance, the defendant considers as the essential process of seeking to establish a pattern of conduct. It also dismisses his criticism of the way in which the Ombudsperson gathered evidence, since neither the Joint Panel nor the Office took action on the basis of her findings.

The Organization regrets the defamatory statements in the Ombudsperson's report, but submits that there is no evidence of partiality on her part. In this respect, the defendant notes that the Ombudsperson's criticism of the complainant in an e-mail to a lawyer occurred several months after the conclusion of her investigation. It submits that although she is not subject to strict procedural rules, the Ombudsperson is nevertheless required to act impartially and to observe the principle *audi alteram partem*. However, it rejects the complainant's allegation of failure to observe that principle, on the grounds that it relates to matters which did not alter the Ombudsperson's findings of fact.

The defendant points out that the Joint Panel's fact findings largely confirmed those made by the Ombudsperson, and that both these organs concluded that the complainant's conduct had been "discriminatory, humiliating and intimidating", even if they differed as to whether such conduct constituted harassment.

As regards the communication of the Ombudsperson's report to unauthorised recipients, the Organization concedes that although disclosure on a "need to know" basis beyond the individuals identified in paragraph 6 of Article 13.15 is legitimate, the communication in this case went beyond that limit, particularly since communication of the recommendations alone might have sufficed in some instances. However, it points out that whereas the individuals to whom the Ombudsperson communicated her report are all bound by a strict duty of confidentiality, the same cannot be said of those to whom the report was communicated by the complainant, in view of the latter's reluctance to provide precise information on the subject.

The Organization submits that the only possible cause of the alleged injury to the complainant's health and well-being was the inclusion of the defamatory statements in the Ombudsperson's report. However, it considers that the fact that the Office fully dissociated itself from those statements in the letter of 6 May 2002 was sufficient to allay any such injury. Regarding the alleged damage to the complainant's professional reputation, the defendant observes that there is no evidence to support the view that the Ombudsperson's findings have been disseminated as a result of the disclosure of the actual text of her report. Nor has it been alleged that the campaign of vilification which he invokes is based on the report or its contents. The decision of the Reports Board to which the complainant objects caused him no damage, since the additional safeguard of an independent assessment of Ms L.'s performance was a normal precaution, assuming neither guilt nor partiality on his part, in the context of allegations of harassment by the supervisor responsible for making the appraisal. As for the Joint Panel's conclusion to the effect that he should be assigned a post without supervisory functions, the Organization considers that this conclusion was fairly drawn from the facts.

It views the complainant's requests for a communication by the Office to recipients of the Ombudsperson's report and for permission to apprise other persons informed of the allegations against him of the conclusion reached by the Joint Panel as basically acceptable, not as redress for injury, but as "normal administrative action".

D. In his rejoinder the complainant maintains his position on the merits and rejects the Organization's objections to receivability. He asserts that he clearly suffered injury to his health, reputation and career prospects as a direct result of the Ombudsperson's breaches of her obligations, and points out that he simply mentioned the campaign of vilification and the Organization's e-mail not as specific grounds of complaint but as additional evidence in support of his original claims. He adds that yet another breach of confidentiality came to light when a doctor from the Joint Medical Service told him that she had been informed by the Ombudsperson that he had been accused of harassment.

E. In its surrejoinder the Organization maintains its arguments on the merits in full. With regard to its objections to receivability, it observes that it may be true that the alleged breach of confidentiality by the Ombudsperson in her communication to a lawyer does not constitute a specific ground of complaint, but that the same cannot be said of the campaign of vilification, in respect of which the complainant has made a claim for redress.

According to the Organization, it is the complainant's insistence on the issue of a statement covering only part of what actually happened that is preventing it from taking action on his claim for a communication to recipients of the Ombudsperson's report. It further alleges that after receiving its reply to the present complaint, the complainant met with the Legal Adviser of the Office and proposed a settlement whereby the Organization would not only issue a letter expressly stating that he had committed no fault, but would also pay him damages. It produces a statement by the above-mentioned doctor in which the latter asserts that his case was never referred to in contacts between her and the Ombudsperson.

F. In his further submissions the complainant maintains his allegation concerning his conversation with the doctor in question. He acknowledges that he met with the Legal Adviser of the Office in September 2003, but denies that he made the settlement proposal mentioned by the defendant.

G. In its comments on the complainant's further submissions, the Organization submits that the statement by the doctor produced as an appendix to its surrejoinder is entirely correct. It also maintains its account of the complainant's meeting with the Legal Adviser.

CONSIDERATIONS

1. The complainant joined the ILO in July 1975. He has held grade D.1 since October 1991 and was appointed to his present post of Director of the InFocus Programme on Socio-Economic Security in June 1999. One of his subordinates submitted a grievance for moral harassment against him to the Ombudsperson on 1 November 2001 in accordance with Article 13.15 of the Staff Regulations. In her 75-page report dated 2 April 2002, the Ombudsperson concluded that, of the claimant's four allegations, two were well-founded but the other two were not supported by the evidence. She made 11 recommendations, some concerning the claimant and her supervisor, and others addressed to the Office, the Reports Board and the Staff Union. The Ombudsperson circulated her report not only to the parties and the responsible line manager of the official concerned, as stipulated in Article 13.15, paragraph 6, of the Staff Regulations, but also to the Director-General, the Chairperson of the Reports Board, the Chairperson of the Joint Panel, the Office of the Legal Adviser, the Chiefs of two units in the Human Resources Development Department and the Chairperson of the Staff Union Committee. The Executive Director, who is the complainant's line manager, wrote to the Ombudsperson, in a letter of 6 May 2002, that three statements in the report concerning the complainant appeared to be defamatory. While emphasising his concern that the Ombudsperson's independence should be preserved, he reminded her that the Organization had a legal duty to ensure that those against whom such proceedings are directed were afforded due process and that, in the present case, there was a need "to ensure that proper remedial action [was] taken vis à vis the [complainant], other recipients of the report and, if applicable, the Joint Panel". The Executive Director concluded that the Ombudsperson would certainly wish to take the necessary action herself, but his very precisely and firmly worded letter received no reply.

2. The Office considered that, since the facts held against the complainant were contested, it could not give effect to recommendations based on those facts without violating the procedural safeguards to which he was entitled, and it confined itself to reassigning the claimant to a post where she would not be under the authority of the supervisor against whom she had lodged a grievance. The claimant then referred the matter to the Joint Panel, in accordance with Article 13.16 of the Staff Regulations.

3. Having examined the case anew and after hearing the parties and several witnesses, the Joint Panel, on 7 October 2002, adopted a report stating that, "despite the ambiguous nature of [the supervisor's] behaviour, the Joint Panel does not have sufficient elements from which to conclude that the sequence of events over time might as a whole, given the circumstances and the ILO's working ways, be regarded as harassing behaviour by the [supervisor] in the meaning of [Article 13.10 of the Staff Regulations]". However, the Panel referred to the supervisor's failures in his staff management, to conduct which the claimant had perceived as of a "discriminatory, humiliating and intimidating nature", and to his failure in the obligation on every official with management and director functions to treat colleagues with dignity and avoid causing them unnecessary or excessive hurt. It recommended that, in the absence of intensive coaching on the exercise of staff management functions, the complainant should be assigned to a position where "his manifest abilities as a researcher of great skill and international reputation [would be] untrammelled by preoccupations relating to human resources management".

4. In a letter of 18 November 2002, the Director of the Office of the Director-General informed the complainant that since the Joint Panel had concluded that his behaviour did not constitute harassment, no action was required by the Office in respect of the harassment complaint insofar as he was concerned; he added that the Director-General welcomed his volunteering to follow a programme of management training as had many others in the ILO.

5. Before any decision had been taken by the Organization with a view to ending the harassment procedure against him, the complainant had asked several times for measures to be taken to protect his reputation and dignity, which were jeopardised by certain comments in the Ombudsperson's report and by the fact that this report, which should have remained confidential, had been communicated to persons who should never have seen it. Having requested in vain that his immunity from legal process and that of the Ombudsperson be lifted, he initiated the grievance procedure by requesting an interview with his line manager on 24 June 2002, in accordance with Article 13.2.1 of the Staff Regulations; since the grievance was not resolved, he referred it to the Joint Panel on 5 September 2002, asking the Panel to recommend that the Office:

– issue without delay a retraction of the libels in the Ombudsperson's report,

- request that the Ombudsperson make a personal apology for instigating and circulating untrue and defamatory statements about him,
- take appropriate action concerning the errors committed by the Ombudsperson,
- “recall” all copies of the report other than those that were sent to persons who were entitled to see it,
- grant him compensation for the injury he had suffered as a result of the Ombudsperson’s investigation of the case.

6. On 10 January 2003 the Joint Panel, which had given its opinion three months earlier on the harassment grievance filed against the complainant, concluded that it was not possible for it to examine the substance of the grievance before it without exceeding its jurisdiction, since to do so would have entailed “re-examining” the exercise by the Ombudsperson of her own functions, which the Panel was unwilling to do. In the absence of any decision from the Director-General in regard to the Panel’s conclusion, the complainant inferred that his grievance had been rejected. In a letter of 5 March 2003, he informed the Director-General that he would be willing to consider a settlement, and suggested that a minute, the wording of which would have to be agreed between the parties, might be addressed to all recipients of the Ombudsperson’s report to inform them of the ultimate outcome of the proceedings brought against him and to refute the defamatory statements contained in the report. He also requested fair compensation for the injury he had suffered.

7. Considering that a campaign of vilification against him was being pursued by friends of the claimant, and having found out that the Ombudsperson had commented on his behaviour in an e-mail sent to a lawyer acting for claimants in another case, the complainant wrote several letters and took other action during March 2003 to ensure that the Office would take the measures which, in his view, it had to take in order to defend his reputation.

8. Although, according to the Organization, agreement was “almost reached” on the wording of a communication from the Office to recipients of the Ombudsperson’s report, no decision was ultimately taken and the complainant referred his case to the Tribunal, impugning the implicit rejection of the grievance he had submitted to the Joint Panel on 5 September 2002. He essentially presses the same claims as on that earlier occasion, except that those which were directed specifically against the Ombudsperson have been withdrawn, and he now additionally requests that the Tribunal order the Organization to take measures to protect him against the campaign of vilification launched against him.

9. The defendant objects to the receivability of the complainant’s claims on two points only: it considers, on the one hand, that the procedural errors committed by the Ombudsperson do not entitle the complainant to compensation, since they caused him no real injury insofar as the decision that was subsequently taken in response to the accusations levelled at him went in his favour; and, on the other hand, that the claims regarding the Organization’s failure to act against the campaign of vilification alleged by the complainant were not included in the grievance he submitted under Chapter XIII of the Staff Regulations and are therefore irreceivable.

10. The complainant points out, quite rightly as regards the second point, that his grievance was directed against the Organization’s failure to act to protect his reputation and that his reference to incidents which had occurred subsequently is not an extension of his claims but constitutes additional evidence of the injury he suffered, particularly as a result of the disclosure of the Ombudsperson’s report.

11. As regards the first objection to receivability, the issue is more delicate. The Ombudsperson, who is an independent organ within the Organization instituted under Article 13.7 of the Staff Regulations, enjoys wide power to issue whatever recommendations he or she considers appropriate, in full knowledge of the facts, in order to resolve grievances. In harassment cases, the Ombudsperson is empowered by Article 13.15 of the Staff Regulations to “commence an investigation in which further statements may be sought from any persons considered to be relevant to the grievance”, to “hold meetings or discussions with such persons and [...] involve them in the investigation in any other way he or she deems necessary”, to “call for the production of all documents or information as may be relevant”, and to “detail the outcome of the referral or of the process, and [...], if possible, make proposals for resolution”. The Ombudsperson is neither a judicial authority nor a decision-making authority, and the Tribunal will not censure his or her recommendations; however, if it appears that the safeguards to which staff members are entitled – such as the rights of defence, compliance with the provisions of the Staff Regulations and the confidentiality of the information gathered – have not been respected, it is for the

Organization, which is responsible for the faults committed by its internal organs, to assume the consequences if they have resulted in injury to one of its staff members. Thus, the complainant's claims against the defendant for compensation will be receivable to the extent that it appears that the conditions in which the Ombudsperson's report was drawn up and circulated caused the complainant injury, it being noted that the receivability of the claims concerning the Organization's failure to act to protect the complainant is contested only insofar as they concern the campaign of vilification referred to under 9, above.

12. On the merits, there is no doubt that the Ombudsperson took a very broad view of her mandate and that she carried out investigations which were more akin to a real disciplinary enquiry than to an attempt to bring the parties to an agreement. In a memorandum addressed to the Joint Panel in response to the grievance filed by the claimant, the Office in fact admitted that it "seems that the Ombudsperson has not fully understood her own role", which was not to "adjudicate" a dispute but to "resolve or settle" the case before her, and that, in the circumstances, the Organization was unable to "act on the basis of [her] report". The defendant thus clearly indicated that it approved neither the way in which the procedure had been conducted nor some of the conclusions reached by the Ombudsperson. As far as the procedure is concerned, some of the matters raised by the complainant, such as the duration of the inquiry and the extent of the investigations undertaken by the Ombudsperson, cannot in any case be held against the Organization. On the other hand, even though the Ombudsperson communicated a draft report to the complainant and to the claimant and took account to some extent in her final report of the comments made in return, thus abiding by the adversarial principle, she did include in her final report the testimony of a staff member who remained anonymous and who had worked for the programme managed by the complainant, on which the latter was given no opportunity to comment. Worse still, the report contains three statements which the Office rightly considered, as early as 6 May 2002, to be defamatory and which it still considers to be such.

13. Had this report been seen only by the persons entitled to receive it, it might not have injured the complainant's reputation, given that it was issued by an authority of the Organization which had no power of decision. However, as pointed out above, the whole of the report was communicated to persons who were not entitled to see it and there is no doubt that this disclosure, which was contrary to the obligation of confidentiality by which the Ombudsperson is bound pursuant to Article 13.15, paragraph 9, of the Staff Regulations, caused the complainant injury warranting compensation, even though the report was circulated "on a confidential basis".

14. Can the Organization be said to have aggravated the injury by failing to take remedial measures which might effectively have protected its staff member's reputation? In this respect, one must agree with the defendant that the Office chose not to implement the Ombudsperson's recommendations, that it drew the latter's attention – without receiving any reply – to the defamatory statements appearing in her report, and that it sought to reach agreement with the complainant on a communication from the Office which would explain "developments in the procedure" to recipients of the report and generally provide them with information which would "safeguard the complainant's reputation". The Tribunal acknowledges the efforts made by the Office, as is its duty, to protect the reputation of a staff member (see, for example, Judgment 1619). But it notes that the defendant was under no obligation to seek the complainant's agreement as to the form and the terms of the communication to be sent to the recipients of the Ombudsperson's report and to those who subsequently indicated publicly that they had had knowledge of the report's conclusions. The Tribunal will not issue any injunction in this respect, but will leave it to the defendant to inform the recipients of the Ombudsperson's report, through whatever channels it deems appropriate, that it was regrettable that the report, which should have remained confidential and which concerns persons who were entitled to the protection of that confidentiality, should have been unlawfully circulated, which was all the more serious for the fact that some of its content was defamatory.

15. In the circumstances of the case it appears that, as a result of the disclosure of the accusations against the complainant to persons who were not entitled to be informed of them, and of the Organization's failure to take adequate measures to protect his reputation, the complainant suffered injury in respect of which compensation is due. It is true that the complainant has not proved that the events affected his career or the programme for which he is responsible, nor has it been established that the health problems that affected him were mainly caused by the stress which he underwent. But there is no doubt that he suffered moral injury, for which the Tribunal considers he will be fairly compensated by this judgment and by an award of 30,000 Swiss francs.

16. The complainant is entitled to costs incurred in these proceedings, which the Tribunal sets at 6,000 francs, as he requests. He also claims costs for the proceedings before the Ombudsperson, before the Joint Panel when the latter examined the grievance submitted by Ms L. and before the same Panel when it dealt with his own grievance. In rejecting these claims, the defendant refers to Article 13.2.2, paragraph 1, of the Staff Regulations, which

stipulates that it is for the Joint Panel to make a proposal to the Director-General regarding “provision for costs, provided however that all expenses arising from hearings decided by the Panel in accordance with the relevant rules shall be borne by the Office, with the exception of those associated with external representation”. The Organization notes that the Joint Panel did not recommend any “provision” for costs and concludes that a claim under that head can no longer be submitted. While there is no reason to award costs in respect of the unspecified expenses allegedly incurred in the course of the proceedings before the Ombudsperson and in the case brought by the claimant before the Joint Panel, the claim for costs incurred by the complainant for his own appeal before that Panel is receivable. While it is true that the Panel did not issue any specific recommendation in that respect, that omission may be explained by the fact that it wrongly considered that the grievance did not fall within its jurisdiction. The complainant had made a point of asking the Joint Panel to award costs, but had not specified the amount he wanted. The Tribunal awards him the sum of 2,000 francs.

DECISION

For the above reasons,

1. The ILO shall pay the complainant 30,000 Swiss francs in compensation for moral injury.
2. It shall pay him 6,000 francs for costs incurred before the Tribunal and 2,000 francs for costs incurred in the course of the internal appeal proceedings.
3. All other claims are dismissed.

In witness of this judgment, adopted on 21 May 2004, Mr Michel Gentot, President of the Tribunal, Mr James K. Hugessen, Vice-President, and Ms Mary G. Gaudron, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 14 July 2004.

Michel Gentot

James K. Hugessen

Mary G. Gaudron

Catherine Comtet