

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

118th Session

Judgment No. 3364

THE ADMINISTRATIVE TRIBUNAL,

Considering the fourth and fifth complaints filed by Mr S. M.-S. against the World Health Organization (WHO) on 30 November 2011, the fourth complaint having been corrected on 10 February 2012, WHO's replies of 1 June, the complainant's rejoinders of 24 October 2012 and WHO's surrejoinders of 15 February 2013;

Considering the ninth complaint filed by the complainant against WHO on 18 June 2012, WHO's reply of 5 October 2012, the complainant's rejoinder of 21 January 2013 and WHO's surrejoinder of 15 February 2013;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

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

A. Information about the complainant's career at WHO can be found under A in Judgment 2913, delivered on his first complaint. Suffice it to recall that the complainant joined the WHO Regional Office for Africa (hereinafter "the Regional Office") in Brazzaville (Congo) in 1984 and at the material time was performing duties at grade G.5,

step 13 (BZ.05.13). Having been found guilty of misconduct in a written test organised to fill several posts, the complainant was reassigned with a reduction in grade, to G.4, step 1, as from 24 July 2006. Following the dismissal of the appeal he had lodged with the Regional Board of Appeal (RBA), on 22 January 2007 he appealed to the Headquarters Board of Appeal (HBA). This internal appeal led to his first complaint to the Tribunal, dealt with in Judgment 2913.

While his appeal of 22 January 2007 was pending before the HBA, on 24 October 2007 the complainant sent the Chairperson of the HBA a letter entitled “Open complaint against [his supervisor] for harassment and discrimination at work”. Relying on a confidential internal memorandum, which he annexed to his letter, concerning another staff member of the Regional Office, he averred that the disciplinary measure taken against him showed that his supervisor was biased against him. He requested an open debate in order to prove that his “argument [was] solidly based”.

On 26 October he sent to several staff members at the Regional Office an e-mail to which was attached a copy of his complaint of 24 October, stating that he was “no longer afraid to go public, as soon as I can, about all the setbacks with the administration”, and that he had passed to his lawyers some “shameful cases” he had come across in the course of his career. On 6 November the Director of the Division of Administration and Finance of the Regional Office told the complainant that his e-mail of 26 October contained threats against the Organization, and that it also indicated that he had disclosed confidential information to persons outside WHO. In view of this “very serious” situation, the Regional Director had decided, pending the outcome of an investigation, to suspend him from duty on full pay with immediate effect, until 5 December 2007 inclusive. He explained to the complainant that as long as his suspension lasted, he was forbidden to enter the premises of the Regional Office without a prior formal invitation.

The complainant’s suspension was extended on several occasions on the grounds that the investigation was still in progress.

On 28 November 2007 the complainant was interviewed by an official of the Internal Oversight Services (IOS). In a memorandum of 8 February 2008, the Director of the Division of Administration and Finance notified the complainant that he was accused of breaching the rules of confidentiality, and invited him to provide an explanation before a decision was taken with regard to him. In a memorandum of 11 February 2008 the complainant sought to justify his actions on the basis that he had no other means of making known his allegations of harassment and discrimination against “[his] supervisors”. On 26 September 2008 the Director of the Division of Administration and Finance told the complainant that the actions of which he was accused, and which he had himself admitted during the interview of 28 November 2007, constituted further misconduct additional to his original misconduct, because he had failed in his duty to respect confidentiality, as well as in his obligations of good behaviour and discretion. The Regional Director had therefore decided to dismiss him for misconduct. He was told that he would receive an indemnity of one month’s salary in lieu of notice, and would “soon” be contacted about the formalities for his separation from WHO.

On 3 October 2008 the complainant appealed this decision to the RBA. Being informed on 29 June 2009 that the Regional Director, on the basis of the report delivered to him by the RBA on 24 June, had decided to maintain his decision to dismiss him for misconduct, on 30 July 2009 he appealed to the HBA. In his statement of appeal, dated 24 August 2009, he complained that WHO had not supplied him with any form concerning the formalities for his separation, nor had it paid him the indemnity he was supposed to receive in lieu of notice. In its report to the Director-General, dated 21 June 2011, the HBA recommended that the complainant’s appeal be rejected. It did, however, recommend that the necessary steps should be taken to process the separation formalities and to pay the complainant the appropriate indemnity.

On 11 August 2011 the Director-General informed the complainant that she endorsed the Board’s recommendation to dismiss his appeal. She also told him that because he owed WHO a large sum

of money, the separation formalities and the payment of the month's salary in lieu of notice had not been carried out. The Regional Office would close his file only once he had reimbursed the money, and he was urged to do so as soon as possible. This is the decision impugned by the complainant in his fourth and fifth complaints.

On 8 September 2011 the complainant wrote to the Director-General alleging a conflict of interest on the part of the executive secretary of the HBA, since she had written WHO's reply and surrejoinder to his appeal of 30 July 2009 before that function was assigned to her. On 8 December 2011 the Director of Human Resources Services replied that his claims were rejected. On 7 February 2012 the complainant sent to the HBA a statement of intention to appeal against the decision of 8 December 2011. On 18 April 2012 the Director-General explained to him that, since he was no longer a staff member of WHO, he no longer had access to the internal appeal mechanisms, and since he had already raised his grievances concerning an alleged denial of justice in the complaints he had filed on 30 November 2011, he could not pursue identical claims before two different instances at the same time. His "appeal" of 7 February 2012 could not therefore be submitted to the HBA for its consideration. That is the decision impugned by the complainant in his ninth complaint.

B. In his fourth complaint, the complainant avers that the IOS official who interviewed him on 28 November 2007 flouted the adversarial principle by failing to question any witness, or his supervisor. At the end of its investigation, the IOS did not draw up any report, which in his view contravenes both the investigation procedure in force at WHO and his rights of defence. With regard to his dismissal, the complainant explains that he had a "legitimate motive" for disclosing a confidential document, since the document in question proved that he had been the victim of discriminatory treatment.

The complainant requests the quashing of the impugned decision, and also of those of 29 June 2009, 26 September 2008 and

6 November 2007; his reinstatement, with effect from 1 October 2008, to the WHO Regional Office for Africa, but in a different unit from the one in which he had been employed; and consequently, the restoration of his career and the payment of all the salary and other emoluments that he ought to have received up to the date of delivery of this judgment. He also claims 3 million United States dollars in compensation for injury. Failing his reinstatement to the Regional Office, he requests payment of the indemnity in lieu of notice that was owing to him, and of an “end of service indemnity”, and all the salary and other financial benefits that he should have received between 1 October 2008 and the date of delivery of this judgment. He also claims 10 million United States dollars in damages. In all events, he claims interest of 8 per cent per annum on all sums paid to him, and 50,000 dollars for costs. As a subsidiary plea, he asks the Tribunal to order WHO to provide him with the procedure in force with respect to the “practice of briefing and debriefing”.

In his fifth complaint, the complainant criticises WHO for having failed to carry out the formalities required for his separation, and asserts that the condition imposed by the Director-General in her decision of 11 August 2011, making the performance of these formalities dependent on the reimbursement of the money he owes to WHO, is unfounded, discriminatory and unlawful. Lastly, he contends that since he was dismissed for misconduct, according to Staff Rule 1075.1 he should have received half the indemnity payable under Rule 1050.4.

The complainant requests the Tribunal to set aside the impugned decision, and the decisions of 29 June 2009 and 6 November 2007, and to recommend that WHO carry out the formalities relating to his separation. He requests payment of the indemnity provided for in Staff Rule 1075.1, and the indemnity that ought to have been paid to him in lieu of notice. He claims 2 million United States dollars for moral and professional injury and 50,000 dollars for costs. He asks that all sums paid to him should bear interest at 8 per cent per annum. Subsidiarily, he asks the Tribunal to order WHO to produce the

“procedures in force concerning separation formalities following the termination of an employment contract”.

In his ninth complaint, the complainant contends that the Director-General, in denying him access to internal means of redress, acted contrary to paragraph 48 of the Rules of Procedure of the HBA. There is no provision in the Rules to prevent a “staff member who has been dismissed” from having access to WHO’s internal appeal mechanisms. He states that there is no link between the decision of 11 August 2011 and his claim of 8 September 2011, and that the objection raised by the Director-General in her decision of 18 April 2012 that there would be a bar to pursuing the same claim before two jurisdictions, is unfounded. He also repeats his allegations of a conflict of interest on the part of the executive secretary of the HBA.

The complainant asks the Tribunal to set aside the decisions of 8 December 2011 and 18 April 2012. He also claims 2 million United States dollars in damages and 50,000 dollars for costs.

C. In its reply to the fourth complaint, WHO explains that the IOS official who interviewed the complainant had not “by any means” been sent to Brazzaville in order to inquire into his conduct. He was there to carry out an audit of the Regional Office, and had “done no more” than to listen to the explanations given by the complainant. Since the latter, during the interview of 28 November 2007, had “immediately admitted the misconduct of which he was accused”, according to WHO there was no need for the IOS to draw up an investigation report. Nevertheless, according to WHO, the complainant’s defence rights were fully respected, given that the record of the interview of 28 November 2007 was communicated to him together with the memorandum of 8 February 2008.

As regards the charge against the complainant of disclosing confidential information, WHO considers that the explanations he has given to justify his action are not satisfactory, pointing out that a staff member has legitimate means of asserting his or her rights.

In its reply to the fifth complaint, WHO states that the formalities for the complainant’s separation were partly carried out in his

absence, because he was prohibited from entering the premises of the Regional Office. Relying on a number of provisions of the WHO Manual, it goes on to argue that the suspension of those formalities is justified while the complainant continues to owe WHO a certain sum of money. It also states that he had no right to the payment of the indemnity provided for in Staff Rule 1075.1.

In its reply to the ninth complaint, WHO argues that this complaint is irreceivable since the claims raised relate to a decision which did not affect the complainant's employment status and which was taken subsequent to his separation from WHO. Moreover, noting that the complainant had already raised the claim of a conflict of interest in his fourth and sixth complaints, it points out that according to the case law, the same claim cannot be raised before the Tribunal in two separate complaints.

On the merits, it denies that it deprived the complainant of his right of appeal and adds, as a subsidiary argument, that since he was no longer a staff member he no longer had access to WHO's internal appeal channels, according to Staff Rules 1230 and 1240.

WHO also explains that the executive secretary of the HBA was not involved in dealing with the complainant's appeal of 30 July 2009, since she had recused herself before taking up her duties. It considers the complainant's ninth complaint to be abusive, and asks the Tribunal to order him to pay all or part of the costs of the proceedings.

D. In the rejoinders relating to his fourth and fifth complaints, the complainant develops his arguments. He alleges a procedural flaw in that WHO effected the formalities for his separation in his absence. In the rejoinder relating to his ninth complaint, he argues that WHO's objections to receivability and counterclaim are unfounded.

E. In its surrejoinder to the fourth and fifth complaints, WHO maintains its position. It requests the Tribunal to join these two complaints together with the sixth complaint, because they contain the same arguments "with minor variations". In its surrejoinder to the ninth complaint, it also maintains its position.

CONSIDERATIONS

1. The complainant's career is described in Judgment 2913, delivered by the Tribunal on 8 July 2010.

2. The complainant, who worked at the WHO Regional Office for Africa, was the subject of a disciplinary measure in 2006 for misconduct during a written test. Proceedings on this matter culminated in the dismissal by the Tribunal of his first complaint in Judgment 2913.

3. On 24 October 2007, while the appeal leading to his first complaint was pending before the HBA, the complainant sent to the chairperson of the RBA a letter entitled "Open complaint against [his supervisor] for harassment and discrimination at work". Annexed to that complaint was a copy of a confidential internal memorandum notifying a disciplinary sanction imposed on another staff member of the Regional Office.

4. On 26 October 2007 he compiled and sent out an e-mail entitled "Information", attaching the letter mentioned above and stating that he was no longer "afraid to go public about [...] all the setbacks with the administration". He also mentioned having transmitted internal documents of the Organization to his lawyers.

5. On 6 November 2007 the complainant was suspended from duty for one month, pending the completion of "the investigations about him".

6. On 28 November 2007 he had an interview with an official of Internal Oversight Services (IOS).

7. On 8 February 2008 the Administration notified him that he was charged with having disclosed confidential information to third parties and asked him to give an explanation within eight days. He

replied on 11 February 2008 by asking the Administration to refer to the transcript of answers he had given during his interview with the IOS official on 28 November 2007.

His suspension from duty was extended several times.

8. On 26 September 2008 he was informed that he was being dismissed for misconduct at one month's notice.

9. The complainant challenged that decision before the RBA on 3 October 2008, seeking the cancellation of the decision and his reinstatement.

10. In its report of 24 June 2009, the RBA stated that "in agreement with the Administration, it recognise[d] that there had been a violation of professional standards and a failure to respect confidentiality" and that it "adhere[d] to the decision to dismiss him for misconduct".

By a letter of 29 June 2009 the Regional Director notified the complainant of his decision to accept the conclusions and recommendations of the RBA on maintaining the dismissal.

11. The complainant appealed to the HBA on 30 July 2009. In his appeal statement of 24 August 2009, he complained that he had not received any form concerning the formalities for his separation, and that WHO had not paid him the indemnity he was supposed to receive in lieu of notice. He also alleged that staff members at the Regional Office were guilty of harassment.

12. The HBA met on 13 September 2010 and decided to "suspend the appeal pending a final decision on the appellant's allegations of harassment". On 16 September 2010 it transmitted the file to the Director of the IOS.

13. On completion of its preliminary investigation, the IOS concluded that the complainant had not been a victim of harassment.

On 22 December 2010 the Administration informed him that “it d[id] not appear, in the light of the allegations and documents submitted, which ha[d] been examined by both IOS and [itself], that the conduct of any staff member of WHO towards [him] was intended to harass [him], or that a staff member [had] acted towards [him] in an unacceptable manner. IOS ha[d] therefore decided not to pursue further the allegations of harassment. [...] [T]he Director-General ha[d] decided, in consultation with the Director of IOS and the Director of Human Resources Services, to close the file in the absence of any admissible claim of harassment.”

On 12 February 2011 the complainant challenged that decision before the HBA.

14. In its report of 21 June 2011, the HBA concluded that in the light of the decision of 22 December 2010, “the allegations of harassment would not be dealt with when the appeal is heard”. It also stated that WHO “was bound to pay the month’s indemnity in lieu of notice, and to carry out the separation formalities in accordance with the procedures”, but that its failure to do so did not affect the decision on dismissal. It added that the complainant’s allegations did not call into question the facts leading to his sanction, and that there was no formal flaw in the procedure resulting in his dismissal for misconduct. It therefore recommended that the administration should take the necessary steps to pay the complainant a month’s salary in lieu of notice, and to process the separation formalities. Otherwise, it recommended “dismissal of the appeal in its entirety”.

15. In a letter of 11 August 2011, the Director-General informed the complainant that, “having carefully considered [his] claims and the report of the HBA, [she] consider[ed] that none of [his] arguments in support of [his] appeal were justified” and that she had therefore decided to follow the recommendation of the HBA to dismiss the appeal in its entirety. She also stated that the separation formalities and the payment of the month’s salary in lieu of notice had not been carried out because he owed WHO a considerable sum of money,

which he was urged to reimburse as soon as possible so that his “separation file” could be closed.

16. This decision of 11 August 2011 is the subject of the complainant’s fourth, fifth and sixth complaints.

17. The fourth complaint impugns this decision in that it maintained the dismissal for misconduct; the fifth impugns it for refusal to pay the month’s salary in lieu of notice; and the sixth impugns it for rejecting the allegations of harassment.

WHO requests the joinder of these three complaints.

18. The complainant has filed three other complaints with the Tribunal, his seventh, eighth and ninth complaints, in the following circumstances:

On 7 and 8 September 2011 the complainant sent to the Director-General three documents entitled “Preliminary appeal”. In the first of these, he stated that he had suffered a serious attack on his honour and dignity because, following his dismissal, his photograph had been displayed in the guard posts of the Regional Office. In the second, he stated that he had been the victim of a “denial of justice” because the RBA had not dealt with the complaint he had filed with it on 24 October 2007. In the third, he made allegations of a conflict of interest on the part of the executive secretary of the HBA.

19. By a decision of 8 December 2011, he was informed that these three appeals were rejected. On 7 February 2012 he appealed to the HBA.

On 18 April 2012 the Director-General told the complainant that, as he was no longer a staff member, he no longer had access to the internal appeal procedures, and his appeal of 7 February 2012 would not therefore be submitted to the HBA. Moreover, his appeal was barred by the principle that the same claim cannot be pursued before two different instances, since he had already filed three

complaints with the Tribunal. This decision of 18 April 2012 is the one impugned in the seventh, eighth and ninth complaints.

WHO requests the joinder of these three complaints.

20. The Tribunal has first to decide on the issue of joinder. As stated under 17 and 19 above, WHO is requesting a joinder of the fourth, fifth and sixth complaints, on the one hand, and of the seventh, eighth and ninth complaints, on the other.

The Tribunal considers that although there is reason to join the fourth and fifth complaints, which are interdependent since they concern requests relating to the dismissal and the separation formalities, the same does not apply to the sixth complaint, in which the complainant impugns the rejection of his allegations of harassment. On the other hand, the ninth complaint, challenging the decision of 18 April 2012 in that the Director-General refused to submit to the HBA the claims of conflict of interest and of “physical intimidation”, can be joined to the fourth and fifth complaints, since the complainant raised these claims during the internal appeal procedure which led to the filing of these two complaints.

The Tribunal also considers that the sixth and eighth complaints, dealing respectively with the allegations of harassment and denial of justice, should be joined because the complainant raised the latter claim during the internal appeal procedure in which he was pleading harassment.

To conclude on this point, the Tribunal will therefore begin by considering the fourth, fifth and ninth complaints, then the joined sixth and eighth complaints, and finally the seventh.

21. In his fourth complaint, the complainant is principally seeking the quashing of “the final decision of the Director-General” dated 11 August 2011 insofar as it rejected his appeal against the disciplinary measure of dismissal; his reinstatement with retroactive effect from 1 October 2008, and an award of damages for the injury he considers he has suffered.

22. In support of his claims, he argues that the impugned decision is both formally and procedurally flawed, since the applicable provisions on disciplinary action were violated and the adversarial principle was not respected during the investigation. He adds that he has never received “the investigation report” drawn up by the IOS.

23. The defendant replies, in essence, that since the complainant had acknowledged the misconduct of which he was accused when he was interviewed by the IOS official, there was no need to produce a report.

24. The applicable provisions read as follows:

“STAFF RULES

Section 11

Disciplinary Measures

1110. DISCIPLINARY MEASURES

1110.1 A staff member who fails to observe the standards of conduct as defined under Article I of the Staff Regulations and Staff Rule 110 shall be subject to disciplinary measures. According to the gravity of the offence, this may take the form of any one or a combination of the following:

[...]

1110.1.4 dismissal for misconduct;

[...]

[...]

1130 NOTIFICATION OF CHARGES AND REPLY

A disciplinary measure listed in Rule 1110.1 may be imposed only after the staff member has been notified of the charges made against him and has been given an opportunity to reply to those charges. The notification and the reply shall be in writing, and the staff member shall be given eight calendar days from receipt of the notification within which to submit his reply. This period may be shortened if the urgency of the situation requires it.”

“Section 10

1075. MISCONDUCT

1075.1 A staff member may be dismissed for misconduct as defined in Rule 110.8 and subject to the notification of charges and reply procedure required by Rule 1130. The staff member shall be given one month’s notice. The Director-General may grant him an indemnity not exceeding one-half of that payable under Rule 1050.10. No end-of-service grant is payable.

[...]”

As for the document entitled “The investigation process” relating to cases of misconduct by staff members of WHO, the relevant paragraphs read as follows:

- “3. IOS investigates reports of violations of the regulations, rules and administrative issuances of the Organization [...] from staff members [...].
26. At the conclusion of an investigation, IOS prepares a report which presents the established facts and evidence that have been gathered, including the statements of the subject. It will then be for the Director-General or Regional Director to review the report and decide whether to initiate disciplinary proceedings.
27. A report by IOS that a staff member may have engaged in misconduct and a resultant recommendation to review the matter are not charges of misconduct. The Director-General or the Regional Director initiates the disciplinary process by asking Director HRD to make a formal written charge of misconduct against the staff member and providing him/her with the information on which the charge of misconduct is based.”

25. In this case the complainant, whose conduct was under investigation by the IOS, had an interview on 28 November 2007 with an IOS official, who drew up a document entitled “transcript of the interview”. The Administration subsequently notified the complainant of a charge of misconduct and asked him for an explanation. In reply, the complainant asked the Administration to refer to the replies he had given to the IOS official and which featured in the document in question. He was then notified, on 26 September 2008, of the Regional Director’s decision to dismiss him for misconduct.

26. In the light of the foregoing, the Tribunal finds that the relevant provisions cited above were not observed. They provide that the Director-General or the Regional Director, as appropriate, will decide to initiate disciplinary action on the basis of a report submitted by the IOS. However, the complainant asserts without being contradicted that he did not receive “any investigation report to enable [him] to make observations in [his] defence”. Contrary to the argument put forward by WHO, the fact that the complainant admitted the truth of the facts imputed to him did not dispense it from the obligation to draw up the report provided for in the relevant provisions. A “transcript of the interview” cannot take the place of such a report. In the absence of the necessary report, the disciplinary procedure was not properly instituted and could not therefore take its course in conformity with the applicable law.

It follows from the above that this decision, and also the subsequent decisions including the one made on 11 August 2011, were adopted at the end of a procedure conducted in an unlawful manner, and are therefore flawed and must be set aside.

27. The complainant is seeking reinstatement in WHO. However, in the circumstances of the case there are no grounds for ordering this. According to the Tribunal’s case law, reinstatement is inadvisable when an employer has valid reasons for losing confidence in an employee (see Judgment 2034, under 11), as is the case here. From the transcript of the interview of 28 November 2007, it is clear that the complainant admits having breached his duty of confidentiality, and whatever the reasons he gives in an attempt to justify having done so, this itself undermines the necessary relationship of trust between a staff member and the Organization.

28. For the same reasons, the Tribunal considers that neither is there any reason to meet the complainant’s request to pay him, failing his reinstatement, the salary instalments he would have received between 1 October 2008 and the date of delivery of this judgment.

The cancellation, because of a procedural flaw, of a disciplinary measure taking the form of dismissal cannot in itself negate the facts properly justifying it and which, as already explained, the complainant has himself admitted to be true.

29. However, the fact that the procedure resulting in the disciplinary measure was conducted in breach of the applicable rules, as well as the length of the procedure and of the suspension, caused the complainant moral injury which will be fairly compensated by ordering WHO to pay him an indemnity under this head of 10,000 United States dollars.

30. In his fifth complaint, the complainant seeks execution of the formalities of separation from WHO, compensation for the moral and material injury, and payment of the indemnity in lieu of notice that was due to him, as well as the indemnity provided for in Staff Rule 1075.1.

31. In view of the setting aside of the decision impugned in the fourth complaint, there is no need to rule on these claims, since the indemnity referred to under 29 above covers the whole of the injury suffered as a result of the disputed dismissal.

32. In his ninth complaint, filed on 18 June 2012, the complainant impugns the decision of 18 April 2012 insofar as the Director-General refused to submit his appeal of 7 February 2012 concerning “intimidation and conflict of interest” to the HBA, on the basis that he was no longer a staff member and hence had no further access to the internal appeal procedure and that, according to “a general rule of law, a party is barred from submitting a dispute simultaneously to two different bodies”.

33. The complainant’s accusations are levelled at Ms S.L.P., who was appointed as executive secretary of the HBA in 2010

although she had previously represented WHO as an expert in proceedings between the complainant and his employer.

34. The Tribunal considers that there is no need to rule on the objections to receivability raised by WHO, since the complaint must be dismissed on its merits.

35. Indeed, it is clear from the evidence on file that the official challenged by the complainant formally recused herself in the cases relating to him and informed the chairperson of the HBA in writing that she was doing so. These accusations are therefore in any case without merit.

36. As regards WHO's request to order the complainant to pay costs, the Tribunal can only refuse it because the fourth complaint is partly allowed.

37. Since he succeeds in part, the complainant is entitled to costs in an amount set by the Tribunal at 1,000 United States dollars.

DECISION

For the above reasons,

1. The decision of the Director-General of WHO of 11 August 2011 is set aside to the extent that it maintained the dismissal of the complainant.
2. WHO shall pay the complainant an indemnity of 10,000 United States dollars under all heads of damage.
3. It shall also pay him 1,000 dollars in costs.
4. The complainant's other claims are dismissed, as is the counterclaim by WHO.

In witness of this judgment, adopted on 1 May 2014, Mr Claude Rouiller, Vice-President of the Tribunal, Mr Seydou Ba, Judge, and Mr Patrick Frydman, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 9 July 2014.

CLAUDE ROUILLER
SEYDOU BA
PATRICK FRYDMAN

DRAŽEN PETROVIĆ