

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

L. R.
v.
UNESCO

127th Session

Judgment No. 4125

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr F. W. R. L. R. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 23 May 2018;

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 is a former official of UNESCO whose appointment was terminated on 26 February 2018. On 2 March 2018 two articles were published in the French press, both of which indicated that the termination decision had been taken in the wake of an investigation into alleged acts of sexual harassment by the complainant. A third article with similar content was published in Guatemala on 4 March 2018.

2. On 23 May 2018 the complainant filed a complaint with the Tribunal, in which he alleges that UNESCO disclosed confidential information concerning him to the press without his authorization. He claims 160,000 United States dollars in damages for injury to his

reputation and dignity and for breach of his right to privacy, and asks the Tribunal to order UNESCO to publish the judgment on its website “as an apology” for malicious defamation.

3. The complainant indicates on the complaint form that he is impugning an express final decision dated 2 March 2018, but the only documents he has provided that bear that date are the two French press articles mentioned above. His submissions contain no evidence of any decision taken by UNESCO regarding the facts of which he complains.

4. The complainant appears to believe that, because as a former official he does not have access to the internal appeal mechanism, he is entitled to come directly before the Tribunal in order to assert a claim against his former employer without having first sought a decision on the matter from UNESCO. The complainant is mistaken. The provisions of Article VII of the Statute of the Tribunal make it clear that a complaint must be directed against a decision of the defendant organisation, whether express or implied. This requirement applies equally to serving and former officials, notwithstanding that the latter may be excluded by the staff regulations from pursuing internal appeals, as is the case in UNESCO. Indeed, it is obvious that the organisation must be given an opportunity to address the claims and allegations of a former official before being compelled to participate in judicial proceedings.

5. As the present complaint is not directed against a decision within the meaning of Article VII of the Statute, it is clearly irreceivable and must be summarily dismissed in accordance with the procedure set out in Article 7 of the Tribunal’s Rules.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 9 November 2018, Mr Giuseppe Barbagallo, President of the Tribunal, Sir Hugh A. Rawlins, Judge, and Mr Yves Kreins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 6 February 2019.

GIUSEPPE BARBAGALLO

HUGH A. RAWLINS

YVES KREINS

DRAŽEN PETROVIĆ