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**Layoffs at the World Health Organization
Legal Considerations**

Owing to alleged financial constraints in the last few years, the WHO has embarked on a reform program which will significantly reduce the number of staff at Headquarters and Regional Offices. Recent judgments of the ILO Administrative Tribunal can help shed some light as to the various issues, which might be raised by staff members if they decide to appeal.

In the case of Judgment n° 3038, the WHO has itself recognized that it committed some irregularities by failing to reassign the complainant to various alternative posts, which had been identified by the Global Reassignment Committee. The Organization was therefore willing to negotiate an agreeable settlement that eventually failed.

The ILOAT confirmed in its judgment the principle that in case of bona fide settlement discussions, the time limit of ninety days to lodge a complaint with the Tribunal is extended and will only start at the close of the negotiations. The unlawful termination of the complainant's appointment being established since the Director General accepted the recommendations of the appeals board, the Tribunal only considered the compensation and moral damages the former staff member would be entitled to. Thus, it found that the failure of the settlement negotiations rested solely on the Organization: "The inordinate delay on the part of the Organization, and its conduct during the negotiations, do not reflect the duty that is incumbent on an organisation to negotiate in good faith, or the care it should take in the implementation of a decision." (Consideration 20). The Organization had ignored the various documents filed by the complainant, which it had requested in order to calculate the amount of compensation and had actually made no financial proposal before the complainant lodged the complaint with the Tribunal.

The Tribunal decided that the complainant is entitled to two years' salary and other benefits less earnings during those two years, significant moral damages for the way he was treated in the reassignment process and eventually fixed a global sum of 300 000 United States dollars. The complainant was also entitled to moral damages fixed at 25 000 dollars for the delay and lack of due care and attention in implementing a decision with respect to the complainant's appeal and finally to 20 000 dollars costs.

In the same Session (111th), the ILOAT decided upon a similar case but eventually considered the abolition of the post to be lawful. In Judgment n° 3041, the decision to abolish the complainant's post was a proper exercise of the Organization's discretionary authority: the abolition of her post because of the need to implement programmatic changes dictated by improved technology, did actually result in a reduction of the number of staff in her

department – one valid ground for an abolition – even if at first sight it could seem to be the contrary as new staff members were recruited in the same division. Furthermore, the Strategic Direction and Competency Review (SDCR), which was used for the review of posts and functions in 2005, are only guidelines and “may apply to a greater or lesser degree depending on the particular situation of a Department under review”. The Tribunal was therefore of the view that although the Headquarters Board of Appeal (HBA) found to the contrary, the review process which had been undertaken in her case, even if it did not strictly follow these guidelines, was nevertheless lawful. Finally, the complainant was rightly notified of her entitlement to participate in a reassignment process led by the Global Reassignment Committee (although it was unable to identify a suitable alternative assignment for her).

These cases show that in the course of the abolition of posts, the WHO has to respect strict rules in order to protect its staff members. It has to be able to demonstrate that the abolition is based on objective valid grounds, which have to be communicated, that the abolition does really result in the reduction of the staff and that it also respected the internal reassignment procedures.

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