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of the Global Fund

ILO ADMINISTRATIVE TRIBUNAL UPHOLDS APPEAL BY FORMER INSPECTOR GENERAL JOHN PARSONS

The Administrative Tribunal of the International Labour Organization has upheld an appeal by John Parsons of his dismissal as Inspector General by The Global Fund in November 2012.

The tribunal said the termination process was “fundamentally flawed” and “procedurally unfair.” It ruled that the decision to terminate Mr Parsons’ employment be “set aside.” The tribunal also said that The Global Fund’s actions in publishing the termination of Mr Parsons’ employment and the reason for the termination, along with the refusal by the Fund to remove the “offending information” from its website caused “serious and irreparable harm to [Mr Parsons’] reputation and dignity and were a breach of his right to privacy.”

The tribunal ruled that The Global Fund must pay Mr Parsons material damages in an amount equal to the salary, benefits, and other compensation to which he would have been entitled from 28 February 2013 (the date Mr Parsons’ dismissal took effect) to the date of his anticipated retirement in June 2016 had he remained in service – less Mr Parsons’ net earnings from other sources in that period – together with 5% interest from 28 February 2013 to the date of payment.

The tribunal also ordered The Global Fund to pay Mr Parsons moral damages in the amount of 150,000 Swiss francs, and costs related to the tribunal’s proceedings of 15,000 Swiss francs. (On 3 February, the Swiss franc was worth just under US\$1.)

The tribunal’s 28-page decision, released on 3 February 2016, can be found [here](#) (look for Judgment No. 3613).

The Global Fund Board fired Mr Parsons on 15 November 2012 while it was meeting in Geneva (see [GFO article](#)). According to the tribunal, in a news release issued the same day, the Fund said that the Board had made its decision based on “a performance review; an independent external peer review of the audit function; and a report to the Board by its Audit and Ethics Committee.”

Mr Parsons appealed the decision to the ILO Administrative Tribunal on 10 January 2013. Mr Parsons filed three complaints. The first challenged the decision to terminate his employment. The second complaint challenged The Global Fund’s refusal to retract a news release published on the date of his termination as well as certain other communications, including a letter dated 28 November 2012 to the Chair of the U.S. Senate Foreign Relations Committee. The third complaint challenged the decision to maintain the news release on the Fund’s website.

The tribunal accepted that The Global Fund Board had the authority to terminate Mr Parsons’ employment for unsatisfactory employment (Mr Parsons had challenged this as well), but decided that the decision to terminate was unlawful.

As Inspector General, Mr Parson reported to the Board through the AEC. Essentially, the tribunal said that the AEC had no authority to advise the Board about the Inspector General’s performance, but that it did so anyway. It said that the AEC’s advice was central to the Board’s decision to terminate Mr Parsons. The tribunal found that in taking it upon himself to manage a 2012 assessment of Mr Parsons’ performance, the chair of the AEC had exceeded his authority. At the same time, the tribunal said, this constituted an abdication on the part of the Board, under its By-laws, to assess Mr Parsons’ performance.

The tribunal found that The Global Fund Board did not follow due process with respect to evaluating Mr Parsons’ performance, in that it did not give him adequate opportunity to remedy any deficiencies, and did not give him proper warning that his job may be at risk.

Regarding the second complaint, Mr Parsons had argued that the news release posted on the Fund’s website the day he was dismissed and sent to all staff, and the letter of 28 November, both of which stated that the complainant’s employment had been terminated for unsatisfactory performance, constituted a breach of the Global Fund’s duty to refrain from conduct that may harm the dignity and reputation of a staff member, and a breach of Mr Parsons’ right to privacy.

The tribunal essentially agreed with Mr Parsons. It said that:

“There can be no doubt that the announcement in the news release and the statement in the 28 November 2012 letter that the complainant was terminated for unsatisfactory performance conveyed to readers that the complainant was incompetent and unfit to perform the duties of the Inspector General. These communications were a serious affront to the complainant’s professional reputation and his dignity. The fact that The Global Fund sent an email to its staff members directing their attention to the news release in circumstances where the complainant was not in a position to refute its contents further exacerbates the breach. It also constitutes a serious infringement of the complainant’s right to privacy.”

The tribunal rejected The Global Fund’s assertion that given the nature and importance of the Inspector General position, there would be a lesser expectation of privacy.

The tribunal said that the Fund should simply have communicated Mr Parsons’ departure in neutral terms “such as an announcement that [he] was leaving The Global Fund.” The tribunal ordered The Global Fund to remove the news release from its website within seven days of the release of the tribunal’s judgement. The decision was released on 3 February. The news release was removed from the website on 4 February.

Mr Parsons also argued that the news release and the letter of 28 February, taken together with subsequent statements made by Board members and the chair of the AEC, constituted malicious defamation. The tribunal rejected this contention. It said that “there is no evidence that the publications were issued with malicious intent or intentionally designed to destroy [Mr Parsons’] career.”

A spokesperson for The Global Fund told GFO that the Fund has received the decision of the ILO’s Administrative Tribunal on the case brought by a former Inspector General, and will comply with the ruling.

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