**SEVENTY-FIRST SESSION**

# *In re* VERLAEKEN-ENGELS

**Judgment 1127**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mrs. Evelyne Verlaeken-Engels against the European Organisation for the Safety of Air Navigation (Eurocontrol Agency) on 1 August 1990 and corrected on 24 August, the Agency's reply of 29 November 1990, the complainant's rejoinder of 23 February 1991 and the Agency's surrejoinder of 25 April 1991;

Considering Article II, paragraph 5, of the Statute of the Tribunal, Article 14(3) of the Rules of Court, Articles 9, 25, 26, 27 and 36 of the Staff Regulations governing officials of the Eurocontrol Agency and Articles 22 and 23 of Rule No. 1 concerning the composition and procedure of the bodies provided for in Article 9 of the Staff Regulations;

Having examined the written evidence;

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

A. Having won a competition, the complainant, a Belgian citizen, was offered an appointment with Eurocontrol on 29 March 1988. She accepted the offer and took up duty on 16 May. She was put on a post for a grade A7 expert as a "software quality controller" and assigned to the software section of Bureau R2 of the Central Route Charges Office (CRCO).

Before getting a permanent appointment she had to serve the nine months' probation required under Article 36 of the Staff Regulations for officials in category A.

At the end of September 1988 her supervisors, the head of Bureau R2 and the head of the software section, warned that they intended to end her probation without grant of permanent status.

At the beginning of October 1988 she went on maternity leave. On her return, on 1 February 1989, she was told to carry out a study to improve the quality of in-house software. She submitted a report late in March but her supervisors found it wanting and again in April 1989 came to the conclusion that her probation should be ended.

On 22 June 1989 the Director of Personnel and Finance sent her an adverse probation report dated 16 June and on the strength of it the Director of CRCO recommended discharging her. Though she countersigned the report on 27 June, she disputed it in comments she appended and in a minute of 11 July 1989.

On 7 September 1989 the Director of Personnel wrote to the complainant sending the head of the section's remarks on her observations and other papers. He invited her to submit comments by 15 September. Having got an extension of the time-limit she replied by a minute of 20 September 1989. From 21 September she was assigned to Bureau R1. The report went to the Reports Committee. On 9 October 1989 the Committee unanimously recommended against confirming her appointment.

By decision of 17 October 1989 the Director General terminated her appointment at 1 November 1989. Two of the reasons he gave were "the opinion of the Reports Committee" and her "lack of the qualifications confirmation requires".

On 30 October 1989 two staff representatives saw the Director of Personnel, among others, to talk of her case. In a minute of 31 October she asked for an interview with the Director General. In a letter of 8 November 1989 the Director General pointed out that he and she had originally agreed to meet in the afternoon of 31 October but she had changed her mind because her counsel could not be there; he had no intention of reconsidering the matter and saw no point in seeing her. On 10 January 1990 she filed an internal "complaint" against dismissal. The Director of Personnel and Finance rejected it on the Director General's behalf by a letter of 4 May 1990. That is the decision she impugns.

B. The complainant has twelve pleas.

(1) Although Article 36(2) of the Staff Regulations refers to the probation report as a single document, her own report was supplemented by appendices to the Chief of Personnel's letter of 7 September 1989. So the Administration made out a supplementary report which the Regulations do not provide for. Besides, she was not told when her probation would end nor that in the almost four months from the date of the first report up to that of the final decision she would still be on probation.

(2) She was denied her right to a hearing because she had to answer the rigmarole of comment that came with the letter of 7 September 1989. She needed to give the papers careful thought and was not given enough time in which to do so.

(3) There is no rule that says how many members the Reports Committee should have or that it should be a joint body.

The Organisation failed to comply with Article 22 of Rule No. 1, which stipulates that the Director General shall appoint its members each year. Instead the Committee was set up just for the complainant's case - a dubious process.

(4) Her right to a hearing was further infringed in three ways: she got no copies of the papers put to the Committee; the Committee failed to give her a hearing; and it refused her application for the hearing of witnesses.

(5) Article 26 of the Staff Regulations says:

"The personal file of an official shall contain:

a) all documents concerning his administrative status [and] all reports relating to his ability, efficiency and conduct;

b) any comments by the official on such documents.

... the documents referred to in subparagraph a) may not be used or cited by the Agency against an official unless they were communicated to him before they were filed."

There was blatant disregard of those provisions because, as is said in (4) above, she got no copies of the texts put to the Committee and because she cannot tell whether the Committee and the Director General reached their conclusions on the strength of the papers mentioned in 26.

(6) Among the reasons given for the decision of 17 October 1989 there is no allusion to the actual substance of the Committee's recommendation. Moreover, not until the complainant got the Director General's letter of 4 May 1990 did she hear of the Report Committee's recommendation and the list of papers put to that Committee.

(7) Article 25 of the Staff Regulations says in the last sentence of the second paragraph that "Any decision adversely affecting an official shall state the reasons on which it is based". The Committee's recommendation was not disclosed at the time and the reference to it in the decision of 17 October 1989 is just a routine phrase.

The criticisms in the complainant's probation report were about the performance of analytical work her post description did not cover, and she got her work programme belatedly.

(8) Once the Director General had agreed to see her he was bound by estoppel to make sure that there was a proper meeting between them.

(9) Contrary to practice in the European Communities no provisional report was made half-way through the probation period. Such a report would have enabled her to meet her first-level supervisor's wishes.

(10) The impugned decision discriminates against her as a woman and is therefore in breach of Article 27(2) of the Staff Regulations. Although her supervisor had earlier spoken highly of her he switched to downright hostility on hearing that she was pregnant.

(11) The charges against her are untrue or at least distortions. That is something the Director General cannot deny

without disclosing the papers put to the Reports Committee and the Committee's recommendation and giving something better than a routine explanation for his decision.

(12) Though she served in Bureau R1 from 21 September to 31 October 1989, the views of the head were not made known to the Reports Committee.

She adds comments on the Committee's report. In her view its appraisal of her fitness for service at the time of recruitment shows mistakes of law and of fact. Not all the senior officers who rated her were qualified to do so. She enlarges on her charge of misuse of authority, maintaining that the head of the Section took a dislike to her for not having told him straightaway that she was pregnant.

She seeks the quashing of the decision of 17 October 1989, reinstatement in her former category and grade and at a step determined according to the date of her recruitment, the grant of salary and other benefits as from 31 October 1989 - and the opportunity of serving a further period of probation. She claims 2 million Belgian francs in material damages and 1 million in moral damages, plus interest, and an award of costs.

C. In its reply Eurocontrol seeks to refute the complainant's pleas seriatim.

(1) In its submission there was nothing wrong with letting the Reports Committee have information on the period after 16 June 1989 since the complainant had herself asked for extension of probation. She worked for thirteen months in all, discounting her four months' maternity leave. In any event all the papers put to the Committee were communicated to her.

As Article 36 of the Staff Regulations requires and as the offer of employment, the letter of appointment and the official notification of appointment made plain, she could not have her appointment confirmed until she had successfully completed nine months' probation. Eurocontrol was also free to discharge her at any time if it found her below standard. She was told several times of her shortcomings and only for her own sake was she granted the extensions up to the probation report of 16 June 1989.

(2) She acknowledges having seen all the papers that had to be put to the Reports Committee on 11 September 1989. In fact she had seen most of them before that date. She was allowed ten days in which to reply.

(3) The membership of the Reports Committee and the appointment of its members were fully in line with Eurocontrol's rules, and she cites not a single fact to cast doubt on the members' impartiality.

(4) There is no rule that requires the Committee to hear witnesses or even the official concerned. Since the complainant filed submissions the proceedings were adversarial.

(5) The personal file referred to in Article 26 and the file that goes to the Reports Committee are not the same even though some items may be common to both.

(6) As the Reports Committee said, "all papers relevant to appraisal of the official's performance were notified to her beforehand for comment". But that did not cover routine minutes her supervisors wrote each other about matters she was aware of anyway. There is nothing in the rules to say that the official must see the written records of the Reports Committee before or at the same time as notification of dismissal.

(7) The reasons for the decision of 17 October 1989 were stated. Besides, the consistent case law is that the text of an adverse decision need not give a fully circumstantial explanation of it.

As her quality control work was below par she was asked to carry out a study and it was in line with her stated duties.

(8) What she says about a meeting with the Director General at the end of October 1989 is irrelevant because the decision to end her probation had been taken nearly a fortnight earlier.

(9) Eurocontrol is not bound by the alleged practice of other European organisations of making interim probation reports. A custom will arise only with the consent of everyone concerned and when practice is well-established. There is no such custom here. In any event, as she acknowledges, she knew full well that her work was not up to standard.

(10) There was no discrimination against her on grounds of sex. She was the only woman on the list of candidates for her post and was picked even though she came ninth. Since she was young and already had a child she could be expected to have another.

(11) There was no breach of her right to defend her interests. She saw all the papers that went to the Reports Committee. Though she got the Committee's opinion only with the decision of 4 May 1990, it came from an advisory body and she may cite it or produce it in the present proceedings.

(12) Her final assignments fell outside the scope of the duties she had been recruited for and that is why a performance report was thought unnecessary for the period.

In answer to her additional comments the Organisation points out that her whole argument rests on a five-line excerpt from a three-page report about her prior experience. Though the Committee remarked by the way that she had not been fully qualified for the post, it founded its recommendation on nothing but her performance while on probation. She offers not a shred of proof of misuse of authority and was quite obviously dismissed because her work was not up to the mark.

Eurocontrol caused her no material or moral injury. Indeed it suffered material injury itself from having to pay her seventeen months' salary and two months' pay in indemnity and to find someone to replace her.

It asks the Tribunal to dismiss the complaint as without merit and award costs against her.

D. In her rejoinder the complainant challenges the defendant's reasoning and enlarges on her own pleas. She did not see all the papers put to the Reports Committee. She did not see the list of candidates for one, and she asks the Tribunal to order the defendant to disclose it and all the others. She had never been warned that her performance was falling short, nor that she was getting only another few months. The reason for extending her probation after the unfavourable report was presumably that her comments had carried conviction. From then on those who were bent on getting rid of her began to "feed" material into her file.

Eurocontrol's explanation of the absence of a report on her final assignments is unsound: there is no provision in the Staff Regulations restricting the probationer's duties to the original ones.

The defendant does not deny that the Committee was set up ad hoc. She had no means of checking that the papers put to it included the ones she had supplied. She again objects to its questioning her qualification and experience, which does not square with the view Eurocontrol took when recruiting her.

She denies that the reason for having her do the study was that her quality control work was poor: quality control being a new function, Eurocontrol did not really know what to expect of her.

E. In its surrejoinder Eurocontrol maintains that it properly followed the procedure in this case for confirming appointments in Article 36 of the Staff Regulations. The complainant admits to having been told by her supervisors as early as 26 September 1988 that her performance had not been good enough in her first four months' probation, so it is inconsistent for her to make out that no one explained her shortcomings. Besides, she did no better in her new duties. She is in bad faith in saying that she did not get the papers the Reports Committee based its report on.

CONSIDERATIONS:

The complainant's applications for oral proceedings and for the taking of evidence from witnesses

1. The complainant applies for oral proceedings, for the hearing of three witnesses and for the taking of written evidence from fourteen others in accordance with Article 14(3) of the Rules of Court.

Her applications are denied. She has had ample opportunity to raise in her written submissions all the material issues of law and of fact and to answer the defendant's pleadings on those issues, and the Tribunal has before it all the material it needs to enable it to rule on the complaint.

The issue

2. The complainant, who took up duty with Eurocontrol on probation on 16 May 1988, had her appointment

terminated at 1 November 1989 on the grounds of unsatisfactory performance in the circumstances summed up in A above. The main issue her case raises is whether the Director General's final decision of 17 October 1989 confirming the termination was lawful, and she puts forward no fewer than twelve pleas in support of her contention that it was not, she also makes further observations on the Reports Committee's findings. The Tribunal takes up those pleas and observations below.

The complainant's first plea

3. The complainant asserts that further criticisms of her performance were made after a probation report of 16 June 1989 had been notified to her on 22 June. She points out that whereas Article 36(2) of the Staff Regulations says that "a report" - i.e. only one - shall be made on the probationer Eurocontrol made a supplementary report as well.

She further observes that the duration of her probation was never made clear to her and that she was never told that in the almost four months following the original report she was still on probation.

4. Those arguments are rejected.

The probation report required by Article 36(2) need not be a single document but may comprise several, even if they are made out at different dates. That is a pure matter of form: what really matters is that the Reports Committee and then the Director General should have at their disposal all the material facts, however they may be presented. There is no reason to suppose that they did not in this case.

As for the length of the complainant's probation, her letter of appointment dated 29 March 1988 stated, in accordance with Article 36 of the Staff Regulations, that it was to be nine months. She herself asked that it be extended and the extension was not to her detriment in the circumstances because it afforded her supervisors an opportunity to change their mind, in her favour, about her performance.

The second plea

5. The complainant alleges two breaches of due process in the Reports Committee proceedings: first, the papers she was asked to answer before the Committee met were presented in a disorderly way; and, secondly, she was not allowed enough time in which to write her reply.

6. As to her first point, the way in which her supervisors' comments were put to her is immaterial. Again that is a matter of mere form. The important thing is that she was able to determine from those papers what the substantive criticisms of her were and to address them as she saw fit.

As for the time she got in which to submit her own observations, there are no grounds for believing that it was so short as to prevent her from exercising her right to defend her interests. The Chief of Personnel sent her the papers on 7 September 1989 with an invitation to comment and she says she got them on 11 September. In a minute of 13 September to the Chief of Personnel she applied for an extension to 22 September of the time limit for her comments and after correspondence he gave her until 5 p.m. on 21 September. Granting her only one day fewer than she had asked for cannot by any stretch of the imagination be interpreted as a denial of her right to defend herself. Besides, she did not even take the allotted time: she answered one day before the deadline, on 20 September.

The third plea

7. The complainant objects to the composition of the Reports Committee. She cites Rule No. 1 concerning the composition and procedure of the bodies provided for in Article 9 of the Staff Regulations, and she observes that Articles 22 and 23, do not say how many members the Reports Committee - which is one of those bodies - should have. So the Rule fails, she says, to ensure equal representation for employee and Administration and in particular to require that its members include someone in the same category as the official whose case it has under review. In her submission those are fundamental safeguards. She further observes that Article 22 of the Rule provides that members of the Committee shall be appointed every year - a requirement not reflected in the Director General's decision of 24 August 1989 appointing the members of the Committee who were to examine her case. She suspects that the Committee was set up just to deal with her own case, and says that that was quite unfair, especially since none of its members had any competence in "software quality control", the task she had been appointed to perform.

8. The complainant's criticisms go to the contents of the rules, not to the manner of applying them in her own case, and are therefore immaterial. The Director General's decision of 24 August 1989 appointing the Reports Committee complied with Article 9(1) of the Staff Regulations and Articles 22 and 23 of Rule No. 1: it was up to him to appoint whomsoever he thought fit, and the complainant offers no evidence to suggest that his choice was in any way flawed.

She is also mistaken in alleging breach of the requirement in Article 22 of Rule No. 1 that the Committee be appointed annually. Article 9(1) of the Staff Regulations merely states: "There shall be set up: ... possibly a Reports Committee", so that there is no obligation to have such a Committee in existence at all times. Moreover, the Director General's decision states that the Committee is set up "for the year 1989".

Even if the Committee was appointed ad hoc, its members were not necessarily unfavourable to the complainant on that account: the date of appointment is irrelevant to impartiality. The burden is on the complainant to show that the members of the Committee duly appointed by the Director General were not impartial, and she has failed to offer any evidence to suggest that they were not. All she says is that they knew nothing of her own technical field of work. The Tribunal will not ordinarily question the competence and qualifications of those whom the Director General appoints in the exercise of his discretion to the Reports Committee, provided that the rules are complied with and the members' independence and impartiality are not in doubt.

The fourth plea

9. The complainant alleges breach of her right to defend herself in that the Committee refused her request that it hear her and certain witnesses, including her first-level supervisor.

10. There are no specific rules about the Reports Committee's procedure and the Committee was not bound to hear either the complainant or her witnesses if it thought that that was unnecessary to enable it to form an opinion on her case. There is nothing unusual about that: the Tribunal is free to refuse, and has refused in 1 above, the complainant's application for oral proceedings and the hearing of witnesses, and the Reports Committee has the same discretion in the absence of any procedural rule to the contrary. There was no breach of due process: provided that both parties were given the opportunity to state their views - and they were - the Reports Committee was free to conduct its inquiry as it thought fit.

The fifth plea

11. The complainant submits in her fifth plea that the Organisation was in breach of Article 26 of the Staff Regulations in that not all the papers that were submitted to the Committee were given to her; this kept her from knowing whether the Committee and the Director General had taken account of all the documents mentioned in 26.

Article 26 reads:

"The personal file of an official shall contain:

a) all documents concerning his administrative status [and] all reports relating to his ability, efficiency and conduct;

b) any comments by the official on such documents.

... the documents referred to in subparagraph a) may not be used or cited by the Agency against an official unless they were communicated to him before they were filed."

12. Article 26 is about the personal file. Some documents in that file relate to the official's administrative status and are of no interest to the Reports Committee, which reviews performance. There is therefore no question of submitting to the Committee the personal file as such, even though some of the papers that do go to the Committee may no doubt also appear in the personal file.

The Committee stated in the second paragraph of its report that it had made a thorough examination of the papers listed in the appendix to the report. There are 42 papers listed, and they do not include the personal file as such.

As for the complainant's contention that not all the papers were given to her, the point is taken up in the context of her sixth plea below.The sixth plea

13. The complainant argues that for several reasons she was unable to exercise properly her right to defend herself. Although the Director General's decision of 17 October 1989 cites the Committee's report it does not explain what the substance of that report is. To its final decision, the one of 4 May 1990 she is impugning, Eurocontrol appended the Committee's report and a text of the 42 documents it had had before it. Not until she got that decision, on 7 May 1990, was she given that information, and by then it was too late.

14. The final decision is none the less valid for containing no reference to the contents of the Committee's report. Besides, the complainant has had all the relevant papers at her disposal in pleading her case before the Tribunal.

As for her allegation that she was not told in time of the list of documents sent to the Committee, the Committee itself reports that all papers of relevance to her performance had already been communicated to her for comment. What the Committee was concerned with was her performance while on probation, and she had known full well for some time just what the criticisms of her were.

The answer to her contention that she was given the Committee's report only with the impugned decision is that there is no requirement in the rules that that report should be communicated to the official before the Director General takes his decision. In any event the complainant has had the opportunity of addressing the contents of the report in her pleadings to the Tribunal.

The seventh plea

15. The complainant observes that the second clause of Article 25 of the Staff Regulations requires that a "decision adversely affecting an official shall state the reasons" for it. She submits that the Director General's decision of 17 October 1989 did not answer her case and was not sufficiently substantiated.

16. There was no call to explain the reasons for the decision in any greater detail than the Director General gave. He stated them in clear and explicit enough terms to convey to the complainant the substance of the case against her. The issue was whether or not she had worked satisfactorily and on that score what the Director General's letter said was more than adequate.

17. She further alleges under this head that most of the time she was called upon to do analytical work and not the work set out in the notice of vacancy, which referred to "software quality control" and on which she says she spent not more than seventeen weeks.

18. In its report of 9 October 1989 the Reports Committee observed that for a period exceeding nine months "the probationer was given assignments of a kind and degree of difficulty that corresponded to the duties stated in the notice of vacancy as supplemented by the job description ...".

The purpose of probation is precisely to determine whether the official is capable of performing satisfactorily "assignments of a kind and degree of difficulty" that correspond to those he was recruited for. In retort the complainant simply disputes the Organisation's allegations about the period she actually spent in "software quality control". That is not the material issue. She does not show that whatever other assignments she may have been given were in a different area of work or were of greater complexity and difficulty than those she was appointed to perform. On the evidence before it the Tribunal is satisfied that her argument is mistaken and it finds no reason to question the Committee's statement. She was given clear and specific instructions about the nature of her duties. Besides the notice of vacancy she was given, on 16 May 1988, the very date at which she took up duty, the detailed "job description" which the Committee referred to in its report.

The eighth plea

19. The complainant observes that after taking his final decision of 17 October 1989 the Director General agreed to meet her, at her request, but suggested a time that was not convenient to her. The meeting never took place. The thrust of her argument is that the Director General was somehow "estopped" from not seeing her or her counsel.

20. The doctrine of estoppel is that someone who makes some statement or representation of fact that causes another to act to his detriment by relying on the truth of it may not later deny it even though it turns out to be wrong. But in fact there is no question of estoppel here. The rules do not provide for any further "round" of submissions after a final decision has been taken and the proper course of action for a staff member aggrieved by a

final decision is to go to the Tribunal. The Director General made no promise to reconsider his decision when a meeting was first arranged: on the contrary he made it quite clear in his letter of 8 November 1989 that he was not required and did not intend to re-open the case.

The ninth plea

21. The complainant contends that the custom in the European Communities is to transmit an interim report to the probationer in mid-probation so as to give warning of any shortcomings in work or conduct. Since the provisions on probation in Article 36 of Eurocontrol's Staff Regulations are much the same as the corresponding provisions in the Communities that custom should apply in Eurocontrol as well.

22. The answer to that is that, being an independent organisation, Eurocontrol is not bound by the customs of any other, even one that has rules similar to its own. Besides, that an interim report may be useful does not make it compulsory. In this case there was compliance with Article 36, and there the matter rests.

The tenth plea

23. The complainant maintains that she was discriminated against as a woman and mother, and in support of the charge she quotes disparaging remarks allegedly made by her first-level supervisor on learning that she was pregnant and claiming maternity leave.

24. The evidence before the Tribunal fails to substantiate her charge. For one thing, the purpose of extending probation beyond the standard nine months was to make allowance for the maternity leave she was entitled to. For another thing, the probation report was signed, not only by her first-level supervisor but by two other senior officers as well.

The eleventh plea

25. The complainant again alleges breach of her right to defend herself in that the Director General's decision failed to refute her observations.

26. Her plea fails: the Tribunal need only refer to what it said in 18 above in answer to her seventh plea.

The twelfth plea

27. The last of the complainant's main pleas is that the Reports Committee got no evaluation of her performance from the Head of Bureau R1 of the Central Route Charges Office, in which she served from 21 September 1989 to 31 October 1989.

28. The Committee met first on 18 September 1989 and again on 22 September and 3 and 9 October. It reported on the last of those dates. It took account of her performance in the whole period from 16 May 1988, the date of her appointment, until 18 September 1989, less her maternity leave. That period was quite sufficient to enable the Committee and the Director General to evaluate her performance properly, and there is no reason to suppose that a report on the further 40 days she spent in Bureau R1 would have substantially changed their evaluation.

The complainant's further observations on the Reports Committee's report

29. The complainant puts forward in her original brief, and develops in her rejoinder, detailed observations on the report of 9 October 1989 by the Reports Committee. She repeats several arguments that come already under one or another of her twelve main pleas and they fail for the reasons set out above. She also objects to the Committee's saying that from the outset she failed to show the right qualifications because she had limited professional experience. She says that her supervisors who signed the probation report, the members of the Reports Committee and the Director General did not have the technical competence to appraise her performance.

30. Those comments raise the issue of the poor assessment of the complainant's performance, which is of course what prompted the Director General to conclude that it was not in the Organisation's best interests to confirm her appointment.

A decision not to confirm a probationer's appointment is at the Director General's discretion and, according to well-

established precedent, a discretionary decision may be set aside only if it was taken without authority, or in breach of a rule of form or of procedure, or was based on a mistake of fact or of law, or if some essential fact was overlooked, or if some clearly mistaken conclusion was drawn from the evidence, or if there was abuse of authority.

In the twelve pleas set out above the complainant has sought to show several such flaws but she has not succeeded in establishing a single one. Her further observations on the Committee's report call for an answer of rather broader import. Although the criteria set out above hold good in reviewing all discretionary decisions there must be especial caution in reviewing a decision not to confirm a probationary appointment, else probation would fail to serve its purpose as a period of trial. In the case of a probationer the organisation must indeed be granted the broadest possible measure of discretion consistent with the above criteria, and its decision will be upheld unless some particularly serious or glaring flaw can be shown. What is more, where the reason for refusal of confirmation is, as in the present case, unsatisfactory performance the Tribunal will not replace with its own the Organisation's assessment of the official's fitness.

31. Being satisfied on the evidence before it that there was no fatal flaw in the exercise of the Director General's discretion in this case, the Tribunal cannot but declare the complaint devoid of merit and reject the complainant's claims in their entirety.

The defendant's counterclaim to costs

32. The Tribunal will not entertain the Organisation's counterclaim to an award of costs against the complainant for abuse of process.

DECISION:

For the above reasons,

The complaint and the Organisation's counterclaim are dismissed.

In witness of this judgment Mr. Jacques Ducoux, President of the Tribunal, Miss Mella Carroll, Judge, and Mr. José Maria Ruda, Deputy Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 3 July 1991.

Jacques Ducoux
Mella Carroll
José Maria Ruda
A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.