

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

FIFTY-FOURTH ORDINARY SESSION

In re VERDRAGER (No. 7)

Judgment No. 646

THE ADMINISTRATIVE TRIBUNAL,

Considering the application filed by Mr. Jacques Verdrager on 12 June 1984 concerning the case of Verdrager versus the World Health Organization (WHO);

Considering Articles II, paragraphs 5 and 7, and XII and the Annex of the Statute of the Tribunal and Article 8, paragraph 3, of the Rules of Court;

Having examined the written evidence;

CONSIDERATIONS:

1. In 1976 the Director-General of the WHO terminated the appointment of the complainant, who had refused two transfers. On 21 November 1977 the Tribunal dismissed his appeal against that decision, and it has also dismissed the five applications for review of its judgment.

Besides submitting his unsuccessful applications to the Tribunal the complainant invited the WHO to refer his case to the International Court of Justice.

2. Article XII of the Statute of the Tribunal provides that the Governing Body of the International Labour Office may submit, for an advisory opinion, to the International Court of Justice "the question of the validity of the decision given by the Tribunal" in any case in which the Governing Body considers that the Tribunal wrongly confirmed its jurisdiction or the decision is vitiated by a fundamental fault in the procedure followed. Similar authority is conferred under the Annex to the Statute, Article XII, on international intergovernmental organisations which have recognised the jurisdiction of the Tribunal in accordance with the procedure in Article II of the Statute.

3. The Director-General has refused several times, most recently on 14 May 1984, to submit the matter to the Executive Board of the WHO. He takes the view that individuals may not submit such a matter to the Board and, although he may do so on his own initiative, he does not in this instance choose to propose putting the question on the Board's agenda.

4. The Tribunal has such competence as is conferred on it by Article II of its Statute. Decisions under Article XII and the Annex cited above fall outside the scope of its competence. In fact, although Article II, paragraph 7, empowers the Tribunal to rule on its own competence, its ruling is subject to the right of the governing body of an international organisation to seek review if it believes that the Tribunal has exceeded its jurisdiction or committed a fundamental error of procedure. It is unthinkable that the Tribunal interfere

in such a matter, whether it concern the Executive Board or the Director-General. In general a tribunal may never determine whether any of its judgments shall be challenged before some other body.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment by Mr. André Grisel, President of the Tribunal, Mr. Jacques Ducoux, Vice-President, and the Right Honourable Sir William Douglas, Deputy Judge, the aforementioned have hereunto subscribed their signatures, as have I, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 5 December 1984.

(Signed)

André Grisel

Jacques Ducoux

William Douglas

A.B. Gardner

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