

## NINETY-FIFTH SESSION

**Judgment No. 2268**

The Administrative Tribunal,

Considering the fifth complaint filed by Mrs R. C. against the International Labour Organization (ILO) on 28 October 2002 and her further observations of 19 November and 20 December 2002;

Considering Article II, paragraph 1, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

### CONSIDERATIONS

1. In a previous complaint leading to Judgment 2111, which should be referred to for the facts, the complainant had asked the Tribunal to order the Director-General of the International Labour Office to "acknowledge that the letter from the Swiss Mission [had been] received by the ILO; indicate its position concerning this letter; and [...] make the necessary arrangements for the determining legal classification to be duly recognized".

The complaint was dismissed by the Tribunal, which stated, under 9, that in any case the complainant was "wrong to use the Article 13.2 procedure to challenge decisions, reached long ago, not to contest the position of the Swiss authorities with regard to the legal status of the pensions paid to former international civil servants and the issue of their tax liability".

2. In a letter dated 23 April 2002, the complainant asked the Director-General to provide her with copies of those decisions, together with all supporting documentation. The Director-General informed her in a letter of 24 May that "the ILO is not competent to interpret or comment on the considerations of a judgment delivered by the Tribunal". On 26 June 2002 the complainant lodged an internal complaint against what she considered as an "implicit refusal contained in the letter of 24 May". Having received no reply, she filed a complaint with the Tribunal on 28 October 2002. In her complaint form, she states that she is challenging the decision of 24 May which became final on 26 August 2002.

3. She asks the Tribunal:

"to order the Director-General:

(a) to inform [her] in detail, with supporting documentation, of the decisions of the Governing Body on which he had relied in deciding to allow ILO officials to suffer the withdrawal of the exemption which, until the end of 1984, had applied to the pensions of staff members in situations similar to her own;

(b) failing any such decisions, to recognise that the status of the retirement benefits of ILO staff with regard to Swiss taxation remains to be clarified;

[and] to grant her 500 [Swiss] francs in costs".

4. According to Article II, paragraph 1, of the Tribunal's Statute,

"The Tribunal shall be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials of the International Labour Office, and of such provisions of the Staff Regulations as are applicable to the case."

According to paragraph 3 of that article,

"The Tribunal shall be competent to hear any complaint of non-observance of the Staff Pensions Regulations or of rules made in virtue thereof in regard to an official or the wife, husband or children of an official, or in regard to any class of officials to which the said Regulations or the said rules apply."

5. The Tribunal is therefore not competent to order the Director-General to furnish details concerning decisions of the Governing Body, and even less to order him to recognise that the status of the retirement benefits of ILO staff remains to be clarified.

6. The complaint is clearly irreceivable and must be dismissed under the summary procedure provided for in Article 7 of the Rules of the Tribunal.

## DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 20 May 2003, Mr Jean-François Egli, Presiding Judge for this case, Mr Seydou Ba, Judge, and Mrs Hildegard Rondón de Sansó, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 16 July 2003.

*(Signed)*

Jean-François Egli

Seydou Ba

Hildegard Rondón de Sansó

Catherine Comtet