

## EIGHTY-SECOND SESSION

### *In re Wassef (Nos. 17 and 19)*

#### **Judgment 1572**

The Administrative Tribunal,

Considering the seventeenth complaint filed by Mr. Maher Nabih Wassef-Gerges against the Food and Agriculture Organization of the United Nations (FAO) on 23 August 1995, the FAO's reply of 12 January 1996, the complainant's rejoinder of 19 February and the Organization's surrejoinder of 29 May 1996;

Considering his nineteenth complaint against the Organization filed on 13 October 1995, the FAO's reply of 17 January 1996, the complainant's rejoinder of 26 February and the Organization's surrejoinder of 12 April 1996;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to order hearings, which neither party has applied for;

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

A. The complainant's record of employment at the FAO, which he left in January 1994, is set out under A in Judgment 1401 on his first two complaints.

From 1 to 7 April 1982 he had briefings at the Organization's headquarters in Rome before reporting for duty on a project at Tripoli, in Libya. The travel authorisation form which the Administration drew up for him on 19 March 1982 stated that he would receive daily subsistence allowance (DSA) "upon presentation of hotel bill with [travel expense claim]". Although he did submit the travel claim he failed to provide a proper receipt from any hotel and so did not get the allowance.

On 20 May 1994 the Administration attached a copy of the travel authorisation form to a brief it submitted to the Appeals Committee. By a letter of 8 June 1994 he appealed to the Director-General against the FAO's "Falsification of documents, Colossal Cheating, Violence and Trickery". The Deputy Director-General rejected his appeal in a letter of 25 July.

The complainant put the matter to the Appeals Committee on 24 August 1994. In its report of 15 April 1995 the Committee recommended rejection.

In his seventeenth complaint he impugns the rejection of his appeal which he infers from the Director-General's failure to give him a final decision by 23 August 1995.

In a letter of 15 September 1995 to him the Director-General notified endorsement of the Committee's recommendation. That is the decision he is challenging in his nineteenth complaint.

B. The complainant's main plea is that the travel authorisation form dated 19 March 1982 that the FAO produced was "falsified". Its "trickery", he submits, offends against "holy and sacred human values and rights".

He wants the Tribunal:

"1. to judge and to rule on the status, the legality, the legal value and worthiness, the quality, the meaning behind, and the appropriateness of the legal evidence/document presented by the Administration as Attachment No. 1 to its Statement of 20 May 1994 ...

2. to judge and to rule on the authenticated document ... presented by the Administration with its Reply of 12 January 1995 as the Original of the legal evidence/document under (1) above,

3. to judge and to rule on the personal liability of the officers concerned behind the kind, the nature and the quality of the actions related to points (1) and (2) above and on their prejudicial manner to both the Organization and the staff,

4. to judge and to rule on the different officers' actions and measures stated in this complaint, on the legal and moral responsibility of the Senior Management in ensuring that administrative procedures are simple and clear and are not used for discriminatory purposes or in any

other manner prejudicial to any parties whether it is this Tribunal and/or the Organization and/or the staff, and to order/recommend that the Director-General's actions whether taken by himself or on his behalf should be an example for the highest ethical responsible professional conduct as explicit and implicit described in the Organization's Charter which means a readiness to be continually conscious and a conduct of the highest type. It is crucial that this Tribunal, through its Judgment, confirms to the Director-General the fact that the Pride of FAO in the System's Standards is the only normative work and the self regulatory vocation,

5. to judge and to rule on FAO Staff Rule 303.1312 which indicates that the time limit for reply to a letter of appeal is ninety days "if the staff member has requested the Director-General to render a final decision" by highlighting that;

i. if such Reply is made after the sixty days time limit established by this Court, this reply is considered final even if it stipulates the opposite and that appellant are free thereupon to come to the Tribunal, otherwise

ii. a Reply to such appeal 'other than final' should be made within the time limit of sixty days,

iii. FAO should clearly reflects above points (i) and (ii) in related Manual Sections,

6. to award me US \$ 3 Millions (US \$ Three Millions) as compensation for the injury resulting from this destructive and dishonest practice.

7. to award me the payment of a lump sum of US \$ 6,000.00 for cost.

8. to order the reimbursement by the FAO for the cost of publication of this judgement in 4 American, 4 European and 4 Arab daily newspapers and magazines,

9. to include in this judgement a penalty clause for its execution within 30 days from the date of this judgement equivalent to 50% of the total of awards for every two weeks of delay by the FAO Administration."

C. The FAO replies that the seventeenth complaint is irreceivable because the complainant has failed to exhaust his internal remedies. It is, besides, devoid of merit because he did not meet the conditions for the refund of travel expenses.

Its replies to both complaints state that his claim to payment of daily subsistence allowance is time-barred. The FAO denies falsifying documents and points out that he adduces no evidence to support his allegations. Such litigation is sheer harassment.

D. In his rejoinder on his seventeenth complaint the complainant seeks to rebut the FAO's pleas on receivability. In both rejoinders he enlarges on his pleas and presses his claims.

E. In its surrejoinders the FAO maintains that the complaints are irreceivable, devoid of merit and vexatious.

## CONSIDERATIONS

1. In his seventeenth complaint Mr. Wassef is, in sum, asking the Tribunal to rule on the validity of a document dated 19 March 1982 appended to a brief dated 20 May 1994 that the Organization submitted to the Appeals Committee on one of his internal appeals, No. 449. He accuses the Organization of falsifying that document for the purpose of countering his internal appeal. He wants the Tribunal to rule on the personal liability of the FAO officers concerned in the matter and to award him \$3 million in damages and other relief.

2. His claims in his nineteenth complaint are identical, they again arise out of the document referred to above and his pleas in support are almost identical. The Tribunal therefore joins the two complaints to form the subject of a single judgment.

3. The document in question is a travel authorisation form providing for the payment of a daily subsistence allowance to the complainant in respect of a briefing at headquarters prior to his taking up duty in Libya. The document stated that the allowance was "To be made available to staff member upon presentation of hotel bill with [travel expense claim]". In the brief it submitted to the Appeals Committee on 20 May 1994 the Organization cited the travel authorisation form in support of its contention that it had by issuing the form told the complainant that to have his claim processed he would have to submit a receipted hotel bill, but he had failed to submit any.

4. The complainant pleads a contradiction between the Organization's allegation in its brief of 20 May 1994 that the travel authorization form was issued and what the Director General said in his letter of 25 July 1994 to the complainant on appeal 449, namely:

"... the travel authorisation was prepared for approval on 19 March 1982; it was, however, not processed in view of the fact that you did not present the documents required for the payment of [daily subsistence allowance]."

The complainant's argument is wholly unfounded. Although there is provision on the form for certification, the certifying officer's signature does not appear. The fact is that for the reasons stated by the Organization the complainant received no daily subsistence allowance for the briefing prior to his assignment to Libya. Furthermore, he adduces no evidence whatever to support his accusation that the Organization fabricated evidence to rebut his internal appeal. The complaints must therefore be dismissed.

5. In Judgment 96 (*in re* Jurado) the Tribunal declared:

"While complainants have an absolute right to apply to the Administrative Tribunal, within the jurisdiction assigned to it, without any restriction and are allowed great freedom in supporting their claims, both in form and in substance, this right and this freedom are granted to ensure respect for their terms of appointment."

In the present two cases the complainant's baseless, offensive and highly defamatory allegations of fraud, violence and trickery made against the Organization's officers go far beyond permissible limits and amount to abuse of process.

### DECISION

For the above reasons,

The complaints are dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Miss Mella Carroll, Judge, and Mr. Mark Fernando, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

William Douglas  
Mella Carroll  
Mark Fernando  
A.B. Gardner