NINETY-FIRST SESSION

***In re* Placci (No. 3)** **Judgment No. 2070**

The Administrative Tribunal,

Considering the third complaint filed by Mrs Marlene Placci against the International Telecommunication Union (ITU) on 19 June 2000 and corrected on 19 July, the ITU's reply of 31 October 2000, the complainant's rejoinder of 25 January 2001, the complainant's additional submission of 16 February and the Union's letter of 9 April 2001 provided in lieu of a surrejoinder;

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

Having examined the written submissions and disallowed the complainant's application for hearings;

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

A. The complainant, a British national born in 1947, joined the ITU in 1988. Facts relating to her employment at the ITU can be found in Judgment 1976 on her first complaint. She sustained a foot injury on 20 August 1992, which was recognised as being service-incurred. She underwent an operation and resumed work on a full-time basis on 10 February 1993.

She continued to experience problems with her foot. The Director of the United Nations Joint Medical Service at Geneva confirmed in a memorandum of 22 January 1999 sent to the Chief of the Pensions and Insurance Service at the ITU that the complainant's symptomatology resulted from the injury sustained in 1992. On 8 November 1999 a medical specialist, Dr H., issued a report on the complainant's case confirming a 25 per cent loss of function of the left lower extremity, equivalent to a 10 per cent impairment of the whole person, based on the American Medical Association's "Guides to the Evaluation of Permanent Impairment".

The complainant wrote to the Secretary-General on 24 February 2000 seeking redress for her service-incurred injury and claiming financial compensation for, inter alia, partial permanent invalidity. She claimed that, given her partial impairment, she should have worked a reduced number of hours over the eight-year period since her accident; she wanted the hours worked "in excess" treated as overtime and her sick leave over the years treated as "special sick leave". On 6 March the Chief of the Pensions and Insurance Service informed her that the Secretary-General had authorised the convening of an ad hoc Compensation Board to assess her partial disability.

At the end of a period of sick leave taken by the complainant the Chief of the Personnel and Social Protection Department wrote to her on 23 March 2000 saying that any future absences from work relating to her accident had to be supported by a medical certificate with a full and detailed report by her medical specialist, failing which such absences would be treated as ordinary sick leave. On 3 April she wrote again to the Secretary-General. In that letter she asked to have all her absences in relation to her injury treated as "special sick leave"; in the event of the ad hoc Compensation Board not meeting she wanted a medical board to be convened.

On 28 April 2000 the Secretary-General acknowledged her letters of 24 February and 3 April 2000. He said that the ad hoc Compensation Board would meet as soon as possible and that her request for the convening of a medical board was premature since such a board could only be convened after the Compensation Board had reported and he had taken a decision. He confirmed that for all future absences connected with her injury she would have to provide justification from a specialised practitioner.

The complainant subsequently filed two internal appeals. In one, filed on 1 May 2000 - appeal No. 8 - she sought a decision as to what compensation was due to her and claimed various lump-sum payments. In the other, filed on 10 May 2000 - appeal No. 9 - she principally asked that her absences related to her injury be treated as "special sick leave". The Appeal Board was not convened.

The Compensation Board met three times after the filing of this complaint. In its report of 10 October, the Board recognised that the complainant was suffering from a 10 per cent impairment of the whole person as a consequence of her injury, for which she was entitled to compensation; it recommended paying her the sum of 15,714.80 United States dollars, corresponding to a 10 per cent permanent incapacity. It also recommended that her working environment should be adapted to take into account her mobility problems. The Secretary-General fully endorsed those recommendations and communicated his decision to the complainant on 26 October 2000.

B. The complainant is challenging the implied rejection of her claims made on 24 February 2000. She argues that she has exhausted the internal means of redress, since the Appeal Board failed to begin its deliberations within seven weeks from the lodging of her appeal No. 8, as required by paragraph 4 c) of Rule 11.1.1. Furthermore, the Secretary-General did not send his reply on her appeal to the Chairman of the Board within four weeks as required by paragraph 4 a) of the same Rule.

She had doubts as to whether the Compensation Board would really meet. She states that ITU Rule 6.2.4 and Appendix D to the United Nations Staff Rules do not specify that a staff member has to wait indefinitely for financial compensation in the event of disability attributable to official duties. Although the Administration has obtained information on her case from numerous medical practitioners she has so far received no financial compensation.

On the subject of her sick leave, she says that Staff Rule 6.2.2 does not specify that a medical certificate has to be obtained from a specialist. She should therefore be allowed to obtain one from a general practitioner. Rule 6.2.2 has to be applied to her in the same way as to other staff members. Moreover, since her injury was service-incurred, she should have been given a special leave entitlement. Since 1992 she has had to "adapt to an invalid's life style" while working full time as though she was completely fit for work. She became unable to drive and had to rely on costly forms of transport at her own expense; also her work environment has not been adapted to her handicap.

Had she had an appropriate job description an orthopaedic surgeon would have been able to determine what reduction in working hours was necessary. She states that she suffered psychological harassment through not having a relevant job description. As a result she is suffering from a "major depressive syndrome".

In her claims the complainant mainly seeks payment of compensation for her service-incurred injury, based on "a 25% loss of function since 1992" and including compound interest. She wants a medical board convened in connection with her "major depressive syndrome" and asks for a "permanent invalidity pension". In addition, she asks for a reduction of her working hours in future, and wants a proportion of the hours she has worked since her injury to be regarded as overtime and paid as such. She seeks reimbursement of her medical expenses and lump-sum payments on several counts, chiefly to compensate for the mobility problems experienced since 1992 and the long delays on the part of the Administration in settling the matter of her compensation. She wants the Tribunal to order the Administration to take measures to stop mobbing, give her a relevant job description, transfer her out of her unit and adapt her office to take account of her foot condition. Furthermore, she wants the ITU to treat absences related to her foot injury as "special sick leave"; confirm whether Rule 6.2.2 applies to her in the same way as to other staff, and bear the cost of her exceptionally having to consult specialists in order to obtain sick leave; provide details of sums paid by the *Vaudoise* insurance company since 1992 and confirm that "no amount for compensatory damages has been paid to [a] third party and/or is owed to her"; and make available to her a medical report supplied by Dr D. (following a consultation in May 2000). Should the Tribunal decide that it is not competent to rule on her case she wants the Compensation Board to decide some of the above matters related to her injury. She also claims costs.

C. In its reply the Union contends that the complaint is premature and therefore irreceivable. Under the terms of paragraph 4 e) of Rule 11.1.1 the Appeal Board has ten weeks from the date of the filing of an appeal in which to produce its report. She lodged her complaint with the Tribunal before the expiry of that time period and thus failed to exhaust the internal means of redress.

The complaint is also devoid of merit. The ITU assumed financial liability for her accident and the costs of her successive treatments were reimbursed. It experienced difficulties in determining whether her sick leave constituted ordinary sick leave pursuant to Rule 6.2.2 or whether it was sick leave associated with her work-related accident. That is why it instituted a certification system in respect of her absences. In the absence of a certificate, issued by a specialist and approved by the Joint Medical Service, establishing a causal link between the August 1992 accident

and her periods away from work, the ITU is deducting the complainant's periods of absence from her sick-leave entitlement.

Following a request from the complainant, supported by a certificate from Dr H., the defendant organisation took steps to ensure that the complainant's work space met certain requirements.

The Union points out that the compensation procedure was brought to a conclusion by the submission of the Compensation Board's report to the Secretary-General on 11 October 2000. Its findings were essentially based on the report prepared by Dr H. at the request of the complainant. The complainant did not agree with the degree of impairment calculated nor with the amount of compensation she was to be awarded. The organisation, however, cannot accept her method of calculating the degree of her impairment. It produces the report drawn up by Dr D. that was requested by the complainant.

In order to be able to respond to the complainant's allegations of psychological and professional harassment the Union commissioned a report from an independent expert, asking him to carry out a full study of the complainant's administrative situation since joining the organisation. It produces the resulting report, dated 20 September 2000, and denies that there was any harassment towards the complainant. It also took the decision to have certain investigations conducted. One was carried out by the Director of the Joint Medical Service, and it produces his statement. The ITU also sought an expert psychiatric assessment, which would be submitted to the Tribunal when available.

D. In her rejoinder the complainant contends that the organisation failed to notify her of any extension or delay in the appeal procedure; she maintains that since the Secretary-General did not send a written reply to the Appeal Board within four weeks of her filing her internal appeal she had exhausted the means of internal redress and her complaint is receivable.

On the merits, she reports that the person mandated to investigate her administrative situation unexpectedly telephoned her at home. She argues that this infringed upon her privacy and human rights. Moreover, the report he produced was based on hearsay evidence. The Administration failed to inform her of its decision to carry out the investigation and she saw a copy of the report only because the ITU produced it with its reply on her present case. It is only now that she can present her defence. The statements contained therein were libellous, defamatory and unfounded. She asks the Tribunal to provide "exemplary redress" in the form of damages. She also asks it to hear the author of the report as a witness. In forwarding the report in question directly to the Tribunal the Administration abused its power. She asks to be awarded 200,000 dollars in "punitive" damages.

She argues that a figure of 25 per cent permanent impairment of the whole person must be retained. Contrary to what the organisation affirms, it has not reimbursed all her medical expenses. Moreover, her sick-leave credit over the last four years has been exhausted because the ITU counted all of her sick leave as ordinary sick leave, and her salary has consequently been reduced by 50 per cent.

In additional claims she asks for compensation for occupational illness "as per Appendix D"; reimbursement of medical expenses and transportation costs that are pending, with interest; reinstatement of her annual leave credit and her sick-leave credit; additional salary payments - particularly to take account of her 25 per cent impairment; and an undertaking that the ITU will pay all future expenses connected with her injury.

E. Subsequent to the filing of her rejoinder the complainant received a copy of the psychiatric assessment which was produced at the ITU's request by Dr A. She has submitted a copy to the Tribunal.

F. In its letter to the Tribunal dated 9 April 2001 the Union comments on the tone adopted by the complainant in her rejoinder. The remarks made therein were "of an offensive and defamatory nature". It wishes to stress that in its own pleadings it has never expressed any preconceived judgment with regard to her state of health, having always left that up to the competence of the relevant medical specialists.

CONSIDERATIONS

1. On 24 February 2000 the complainant addressed a request to the Secretary-General of the ITU seeking redress arising from a service-incurred injury to her left foot which occurred on 20 August 1992. She did not receive a

reply within the six-week period provided for in paragraph 2 b) of Staff Rule 11.1.1. This states that if no reply has been received from the Secretary-General within six weeks of the date when the request was addressed to the Secretary-General, the staff member shall within the following six weeks submit an appeal in writing to the Chairman of the Appeal Board. The other time limits applicable under paragraph 4 of Staff Rule 11.1.1 are:

- The Chairman shall submit the appeal immediately to the Secretary-General, who shall send his reply within four weeks from the date he receives the written appeal.

- The deliberations of the Appeal Board shall begin at the latest seven weeks from the date the written appeal was submitted.

- The report of the Appeal Board shall be sent to the Secretary-General within ten weeks from the date the appeal was submitted; a copy of the report shall be transmitted immediately to the appellant.

Paragraph 5 states that the Secretary-General shall take the decision within sixty days of receiving the report.

Clause c) of Rule 11.2.1 provides that no appeal shall be made to a tribunal before the appeal procedure within the ITU, prescribed in Regulation 11.1, has been exhausted.

2. The complainant lodged two internal appeals - "appeal No. 8" on 1 May 2000 and "appeal No. 9" on 10 May 2000. She lodged a complaint with the Tribunal on 19 June 2000 challenging an implied negative decision arising from the ITU's failure to respond to the request of 24 February 2000. She claims she has exhausted the means of internal appeal because the organisation failed to reply to her appeal within the statutory time limit of four weeks.

3. The ITU submits that the complaint is premature because the Appeal Board had ten weeks from the date the appeal was lodged in which to report (until 7 July) and the Secretary-General had sixty days from the date of the report to take a final decision (until 4 September). Therefore, the complainant could not lodge a complaint with the Tribunal until after 4 September 2000.

4. The Statute of the Tribunal provides in Article VII(3):

"Where the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it, the person concerned may have recourse to the Tribunal and his complaint shall be receivable in the same manner as a complaint against a final decision. ..."

5. In the opinion of the Tribunal the complainant had exhausted the means of internal appeal under the applicable Staff Rules when the Secretary-General failed to reply within four weeks from the submission of the appeal. The Union was in breach of its own rules and precluded itself from reaching a final decision in accordance with the internal appeals procedure. The complainant was then entitled to treat the internal appeal procedure as being exhausted and to have recourse to the Tribunal as though she were challenging a final decision.

6. In her letter of 24 February 2000 the complainant claimed that, on the basis of the conclusions of Dr H. dated 8 November 1999, she was suffering a "25% impairment of a lower extremity" or a "10% loss of function of the whole body", which she states is by a ratio of 10:40; she claims that a ratio of 10:40 is equivalent to a ratio of 25:100, and accordingly a 25 per cent impairment of the whole person must be retained.

The complainant claimed that she was compelled to work on a full-time basis under strenuous working conditions. Therefore, she worked 25 per cent more than she should have done for almost eight years and was continuing to do so. She requested that the hours worked in excess be treated as overtime. She complained that all absences at work were treated as "ordinary sick leave" whereas they should have been treated as "special sick leave". She claimed that although she was allowed a three-week cure in 1998, she should have been allowed an annual cure for the previous six years. Dr H.'s certificate requesting proper office accommodation had been ignored and she was moved in September 1999 to shared office accommodation. She claimed that the Administration had been concerned with psychologically harassing her rather than finding a solution to her health problem, for which it is solely responsible.

She sought the following relief:

- A lump-sum benefit for partial permanent invalidity under ITU Staff Rule 6.2.4 and Appendix D to the

United Nations Staff Rules, with 10 per cent compound interest from August 1992.

- Financial compensation for pain experienced and for delay in settling the case.

- Twenty-five per cent "overtime" worked from 20 August 1992 to 31 December 1996, at G.7 level, and from 1 January 1997 to date, at G.6 level, with interest at 10 per cent.

- Compensation because she cannot drive to and from the office or practise sports.

- Refund of expenses incurred in reshaping her lifestyle.

- The provision of adequate office accommodation and transport to and from work.

- A relevant job description in line with the work she was requested to perform.

7. The relief claimed in her complaint is more extensive and is as follows:

(1) Compensation for service-incurred injury sustained in 1992 within thirty days as per the rules governing compensation contained in Appendix D;

(2) Based on 25 per cent loss of function since 1992;

(3) With compound interest at 10 per cent since August 1992.

(4) A medical board convened for "her major depressive syndrome" - incurred as a result of psychological harassment at work - to determine the degree of invalidity.

(5) A partial (or full) permanent invalidity pension for "service-incurred injury and service-incurred illness".

(6) At least 25 per cent of time worked to be treated as overtime from 20 August 1992 to 31 December 1996, at G.7 level, and from 1 January 1997 to date, at G.6 level, with compound interest at 10 per cent.

(7) A reduction in working hours of at least 25 per cent.

(8) to (15) Lump-sum payments in compensation mainly for pain experienced, lack of mobility and transportation difficulties encountered since 1992.

(16) A lump sum for not having been authorised to have a three-week annual cure from 1992 to 1997 and 1999 to 2000 and reimbursement of a hotel bill dating from 1998.

(17) A three-week annual cure from 2001 onwards.

(18) Reimbursement of all pending medical expenses for service-incurred injury and illness.

(19) Compensation for delay in settling this matter.

(20) Compensation for mobbing.

(21) Administration to take steps to stop mobbing.

(22) Transfer to a different unit.

(23) A relevant and current job description.

(24) Office accommodation suitable to her handicap.

(25) Absences in connection with her injury since 1992 to be treated as "special sick leave".

(26) The ITU to confirm that Rule 6.2.2 applies to all staff and/or that the complainant is an exception to that rule.

(27) The ITU to bear the costs of repeated consultations with specialists during each absence in connection with her service-incurred injury.

(28) The ITU to provide details of sums paid by the *Vaudoise* insurance company since 1992 concerning her injury and confirm that no award of compensation has been paid to a third party and/or is owed to her.

(29) A copy of Dr D.'s report to be made available and a medical board to be convened should his report not be congruent with the others.

(30) In the event that the Tribunal decides it is not competent in this case, to order the ad hoc Compensation Board to issue an opinion on:

(a) Dr H.'s report concerning her foot condition.

(b) Her major depressive syndrome.

(c) Reduction in working hours.

(d) Special sick leave entitlement.

(e) Hours "worked in excess of degree of invalidity", as well as the fact that she is required to see a specialist in order to obtain a medical certificate.

(31) A lump sum for costs.

8. The complainant lodged two appeals with the Appeal Board. Appeal No. 8 concerned the absence of a decision to determine what compensation was due for her service-incurred injury. The complainant listed twenty items of relief similar to those claimed in her complaint. But it is only the items claimed in her letter of 24 February 2000 that are receivable. In appeal No. 9 she raised a question of whether absences in connection with her injury should be treated as "special sick leave". She also raised the question of why the Compensation Board, authorised on 6 March 2000, had not yet met. She referred to her letter of 3 April 2000 to the Secretary-General contesting the Administration's decision to treat absence from 25 February 2000 as ordinary sick leave.

She sought eight items of relief which are also claimed in this complaint. But this complaint consists only of an appeal against an implied rejection of the claims contained in the letter of 24 February 2000.

9. In order to deal with this matter it is necessary to consider the history of the complainant's dealings with the ITU. On 20 August 1992 the complainant suffered an accident at the ITU and on 18 September an accident report was sent to the *Vaudoise* insurance company. She had an operation on 4 December 1992. Her own surgeon certified on 21 December 1993 that she was incapacitated for work at 100 per cent from 3 December 1992 to 2 February 1993 and at 50 per cent from 3 February 1993 to 9 February 1993 and noted that she resumed full-time work on 10 February 1993. Her surgeon said that on 8 November 1993 her condition did not give rise for concern and the patient was not in pain. Between 10 February 1993 and 1997 all invoices submitted by the complainant relating to the accident were accepted by the insurance company for reimbursement or direct settlement.

10. On 10 March 1997 the complainant contacted the insurance company to request an expert examination to "determine the consequences" of the accident. The insurance company replied that the medical information available to it made it clear that there was an absence of causality between the injury suffered in August 1992 and her current medical problems. If she did not agree she could obtain a medical opinion at her expense. Correspondence ensued and the complainant did obtain medical opinions. The insurance company then wrote to the complainant on 28 August 1997 to say that insurance coverage for the accident was limited to five years from the date it occurred.

11. Having been informed of this by the complainant, the ITU asked for her medical records - for submission to its Medical Adviser. The organisation sought and obtained legal advice. On the strength of that advice, it told the complainant, on 13 February 1998, that it would pay 100 per cent of the hospitalisation costs for another operation linked to her accident.

12. In July 1998 she went on a cure, but did not stay the full course. She then informed the Administration on

19 August 1998 that she had decided not to undergo the second operation and had been advised instead to go for a thermal cure. She also asked for reimbursement of her expenses.

13. On 28 August 1998 the ITU noted the fact that she had decided not to have the operation and informed her that the expenses of the cure she had been on were accepted only on the recommendation of the Medical Adviser. The organisation would also pay the cost of consultations at Lausanne and at Dracy-le-Fort (in France) even though not previously agreed. However, it would not pay the expenses of a taxi (1,000 Swiss francs) to Dracy-le-Fort, the reason being that the journey was undertaken without the Medical Adviser's prior approval and it was not the nearest place where suitable treatment was available. The Union considered that new circumstances were created by her decision not to have a second operation; consequently, another opinion from the Medical Adviser was necessary in order to decide what should be done for the future.

14. The Director of the Joint Medical Service reported to the ITU on 22 January 1999 that the functional and physical symptoms of the complainant's left foot undoubtedly resulted from the 1992 accident and advised that it was premature to think of a surgical intervention and that only medical treatment was deemed necessary.

15. On 21 April 1999 the ITU requested the Joint Medical Service to arrange for a specialist examination to establish the degree of invalidity suffered by the complainant.

16. The complainant was absent on certified sick leave from 26 April to 2 June 1999.

17. Dr D., a foot specialist at the Orthopaedic Clinic of the Cantonal Hospital in Geneva, was asked to carry out the required examination. In a letter of 31 May 1999, the ITU's Medical Adviser asked him to give an opinion as to what was, and what was not, directly related to the 1992 accident; estimate the loss of function according to "The Guides to the Evaluation of Permanent Impairment"; state whether the complainant's absence from 26 April to 2 June 1999 was directly related to the accident; propose a treatment; and give a prognosis.

18. Dr D. carried out the examination on 2 June 1999 and recommended that a bone scan be taken, which the complainant refused to have. He wrote to the complainant on 11 June 1999 explaining why it was necessary.

19. The complainant obtained a certificate on 6 September 1999 from Dr H. stipulating that her work environment should be adapted to take account of her state of health. She asked for a separate office which the ITU refused to grant as it was not required according to the certificate. Her work area was inspected by the Medical Adviser who, on 22 September 1999, approved it as being in accordance with the medical requirements in Dr H.'s certificate but said she should have an adjustable stool.

20. On 8 November 1999 Dr H. produced a report. He said that the injury to the left foot had resulted in post traumatic arthritis. He estimated the loss of function of the left foot at 25 per cent which corresponded to a 10 per cent impairment of the whole person. He confirmed that her incapacity for work from 26 April to 2 June 1999 was directly related to the accident. He said there was no radical treatment which could remove the sequelae of the accident. He recommended physiotherapy by means of a three-week annual thermal cure.

21. On 6 March 2000 the complainant was informed that a Compensation Board was being set up and she was asked to choose her representative. On 9 March she appointed Mr C.

22. The complainant submitted a medical certificate for sick leave from 25 February to 10 March, and a second one for an extension up to 24 March 2000.

She was informed by the ITU on 23 March that any future sick leave she would ask for in relation to her accident should be supported by a medical certificate accompanied by a full detailed report from a medical specialist; failing that, such periods would be treated as ordinary sick leave.

On 27 March 2000 the ITU told her that she had not provided proper justification for her absence from 25 February to 24 March 2000. She was informed that unless the Medical Adviser advised to the contrary, her sick leave would be treated as ordinary sick leave.

23. On 3 April 2000 the complainant wrote a letter to the Secretary-General which formed the basis of appeal No. 9, asking why the Compensation Board had not met and asking for a Medical Board to be convened. She contested the decision to treat her absence from 25 February as ordinary sick leave.

24. The Secretary-General replied on 28 April 2000 to the two letters dated 24 February and 3 April. He said that he had instructed the Compensation Board to provide advice and that the complainant's request for a medical board was premature. When he received the Board's recommendation he would take a decision; she should await that decision before requesting the convening of a medical board. He confirmed that for any future absences which she claims are related to the accident she would be required to produce a report from a specialist. The Compensation Board had to report on the degree of disability established and it still had to be decided whether her disability had resulted in a reduction of her working capacity.

25. The Compensation Board met on 28 June, 6 July and 7 September 2000. It considered the report of Dr H. dated 8 November 1999 and one from Dr D., dated 9 June 2000. Dr D. had re-examined the complainant on 19 May 2000. He estimated the loss of function for the left foot at 10 per cent which represented a 4 per cent impairment of the whole person.

26. In its report on 10 October 2000 the Compensation Board found: (1) that the complainant was entitled to compensation; (2) that her impairment had not resulted in a total incapacity for work; and (3) that her working environment ought to be adapted to take account of her mobility problems. It unanimously concluded, based on Dr H.'s report, that the complainant had a loss of function of the left foot of 25 per cent which corresponded to a 10 per cent impairment of the whole person. Applying the method of calculation in force within the United Nations common system the Board concluded (by a majority) that the complainant should be awarded 15,714.80 United States dollars. Her representative did not agree with the amount as it did not correspond to the complainant's expectation as to the level of damages.

27. The Secretary-General informed the complainant by letter dated 26 October 2000 of the Board's conclusions. He commented that the process had been delayed because the Board was waiting for the results of an examination requested by the Medical Adviser. He told her that he fully endorsed the conclusions of the Compensation Board and that she would be paid a lump sum of 15,714.80 dollars.

28. To revert to the claims made in the letter of 24 February 2000, the complainant's claim that in calculating the lump-sum benefit for her service-incurred injury she must be treated as having 25 per cent impairment of the whole person, is unsustainable. The unanimous conclusion of the Compensation Board, based on her own doctor's report that she suffered 25 per cent loss of function of the left foot corresponding to a 10 per cent impairment of the whole person, was made according to the rules laid down in the "Guides to the Evaluation of Permanent Impairment" drawn up by the American Medical Association, the use of which is part of the procedure in force within the United Nations common system.

The complainant's claim for "a lump sum benefit" has been met by the decision of the Secretary-General made on 26 October 2000 endorsing the conclusions of the Compensation Board to award her 15,714.80 dollars. If the complainant was dissatisfied with the award as not being adequate to compensate her for claims (1), (2), (4), (5) and (6), which are set out above at 7, she should have pursued the appropriate procedures for internal appeal as provided in the Staff Rules and Regulations.

29. She argues that since she had a 25 per cent impairment of the whole person it means she was forced to work 25 per cent more than she should have done; but her plea is without foundation. She did not have a 25 per cent impairment of the whole person. Even if her argument is applied to the 10 per cent impairment of the whole person as recognised by the Compensation Board, her capacity to perform her duties adequately had not been impaired.

30. Her office accommodation which she complains about, was inspected by the Medical Adviser on 22 September 1999 and was found to be adequate to her medical needs, provided she was also given an adjustable stool. The Secretary-General on 26 October 2000 informed the complainant that he endorsed the conclusions of the Compensation Board, which found that her working environment ought to be adapted to take account of her mobility problems. However, the complainant does not specify how her working environment is inadequate. In the absence of any details, the Tribunal cannot take up this claim.

31. Lastly, the complainant looks for a relevant job description. This has been dealt with in Judgments 1976 and 2026 on her first and second complaints both of which refer to an official job description established in June 1999. The complainant has not proved that there has been any change; therefore, nothing further arises.

32. The Tribunal dismisses all claims.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 27 April 2001, Mr Michel Gentot, President of the Tribunal, Miss Mella Carroll, Vice-President, and Mr James K. Hugessen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 12 July 2001.

Michel Gentot

Mella Carroll

James K. Hugessen

Catherine Comtet

Updated by PFR. Approved by CC. Last update: 27 July 2001.