

The Administrative Tribunal,

Considering the application for execution of Judgments 1553, 1620 and 2185 filed by Mrs Y. M. d. G. on 29 March 2005 and corrected on 1 August, the reply of the United Nations Educational, Scientific and Cultural Organization (UNESCO) of 21 November 2005, the complainant's rejoinder of 21 March 2006 and the Organization's surrejoinder of 4 May 2006;

Considering the interlocutory order in Judgment 2603 delivered on 7 February 2007;

Considering the report provided by the chartered accountant on 30 May 2007, the letter of 5 July to the Registrar of the Tribunal by which UNESCO indicated that it had no comment to make on that report and the complainant's observations of 28 July 2007;

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

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

#### CONSIDERATIONS

1. The facts of the case and the parties' arguments concerning the dispute between them are given in Judgments 1553, 1620 and 2185 to which reference should be made.

By Judgment 2603 delivered on 7 February 2007, which was an interlocutory order following the application for execution of Judgment 2185, the Tribunal decided as follows:

"1. Within thirty days of the delivery of this judgment the Organization shall pay the complainant the sum of 1,000 euros in compensation for the injury suffered.

2. A chartered accountant shall be appointed by order to determine the amount of the complainant's debt that was due on 8 August 1997, the date on which the Organization effected the payments.

3. The accountant shall take into consideration all the parties' submissions to the Tribunal and may request any relevant information from the parties, provided that the rules of due process are observed.

4. The accountant shall submit seven copies of his/her report to the Registrar of the Tribunal by 30 May 2007 at the latest.

5. The report shall be sent to both parties, which shall have thirty days to submit any comments they may wish to make.

6. The accountant's fees and expenses, the amount of which shall be subject to approval by the President of the Tribunal, shall be borne by the Organization.

7. The Organization shall pay the complainant 2,000 euros in costs. The Tribunal reserves judgment on costs in respect of the subsequent proceedings."

2. In his report of 30 May 2007 the accountant appointed by order of 7 March 2007 concluded that, as a result of his investigations, he had been able to ascertain that the "amount of the complainant's debt to the Organization" worked out at 798,328 French francs on 8 August 1997.

This report was forwarded to the parties for their respective comments.

3. In a letter of 5 July 2007 addressed to the Registrar of the Tribunal, UNESCO stated that, in view of the accountant's findings which, it considered, proved "that the set-off [it] effected was genuine and correct, [it] wished to press all its claims [...] to the effect that the complainant's complaint should be dismissed [...], especially as it had already been held in Judgment 2603 that '[a]ll the complainant's claims which are unrelated to this issue [the exact amount of the debt set off by the Organization] must be deemed irreceivable'".

The complainant made some comments regarding the proceedings and some remarks about questions which have already been examined by the Tribunal, or which cannot be considered in the context of this complaint. In substance she concluded that the debt was unjustified because the Organization "had engineered her insolvency and despoilment".

4. The Tribunal observes that following a meticulous study of the submissions and the documents produced the accountant has accurately answered the only question he was asked, namely the amount of the complainant's debt that was due on 8 August 1997. The accountant has determined that it amounted to 798,328 French francs, which matches (to within 32 centimes) the sum deducted by the Organization as a set-off, i.e. 798,327.68 francs.

The complainant has produced no evidence which would lead the Tribunal to reject the accountant's findings.

In view of its earlier decisions and bearing in mind the fact that it has already ruled on the principle of the set-off, the Tribunal considers that the Organization must be deemed to be released from its debt to the complainant with retroactive effect, so that it shall be required to pay neither interest nor penalties, as stated in Judgment 2185.

5. In the light of the accountant's findings, and having regard to the fact that in Judgment 2603 the complainant was already awarded 1,000 euros in compensation for the injury suffered, the Tribunal considers that her other claims must be rejected.

Since the complainant does not succeed, she is not entitled to costs.

## DECISION

For the above reasons,

The application is dismissed.

In witness of this judgment, adopted on 5 November 2007, Mr Seydou Ba, Vice-President of the Tribunal, Mr Claude Rouiller, Judge, and Mr Patrick Frydman, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 6 February 2008.

Seydou Ba

Claude Rouiller

Patrick Frydman

Catherine Comtet