

## THIRTEENTH ORDINARY SESSION

### ***In re* PILLEBOUE**

#### **Judgment No. 78**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the United Nations Educational, Scientific and Cultural Organisation drawn up by Mr. Marcel Pilleboue on 25 October 1963, brought into conformity with the Rules of Court on 6 December 1963, the reply of the Organisation on 30 January 1964, the complainant's request dated 14 February 1964 that the Organisation should be ordered to produce an additional document, and the Organisation's observations, dated 18 March 1964, concerning the said request;

Considering article II, paragraph 5 of the Statute of the Tribunal and the Preamble, regulation 8.1 and rule 108.1 of the UNESCO Staff Regulations and Rules;

Having examined the documents in the dossier, the Tribunal having ruled that there should be no oral proceedings;

Considering that the material facts of the case are as follows:

A. For the purpose of renewing its Executive Committee, the Staff Association of UNESCO held elections on 28 March 1963 at which one Petry was elected vice-chairman of the said Committee. By a communication dated 29 March 1963 Mr. Pilleboue, himself a member of the Staff Association, requested the Director-General of UNESCO to declare the election of Mr. Petry void and, consequently, that of the Executive Committee as a whole, on the grounds that at the time of presenting himself as a candidate and his candidature being brought to the notice of the electors, Mr. Petry did not possess the status of member of the Association, which is required by its Regulations and Rules in order to participate in its activities, because he had paid his contribution only at the moment of the ballot, whereas under the said Regulations and Rules membership is subject to payment of contributions.

B. By a note dated 10 April 1963 the Chief of the Bureau of Personnel informed Mr. Pilleboue that the Director-General was unable to deal with his request since he was empowered to rescind only those decisions taken by himself or on his behalf. However, as the matter fell within the province of the Staff Association itself, the Director-General had informed the Association of the purport of Mr. Pilleboue's note. By a resolution of 9 April 1963, the Council of the Staff Association, while deploring Mr. Pilleboue's manner of proceeding, decided that the elections called into question by him were to be considered fully valid in view of the fact that any member of the Association retains full membership rights so long as he does not expressly refuse to renew his contributions, and that Mr. Petry, who had been a member of the Association since 1961, had been appointed to the Council of the Association both in 1962 and in 1963 as the result of regular elections.

C. An appeal against the Director-General's decision of 10 April was lodged with the UNESCO Appeals Board, which on 15 July 1963 expressed the view that Mr. Pilleboue's complaint should be dismissed. On 6 August 1963 the Director-General accepted this view and informed Mr. Pilleboue accordingly. The complainant alleges that because the Staff Regulations and Rules make express provision for the existence of the Staff Association and the Director-General has approved the Association's Regulations and Rules, it falls to him to ensure that they are properly observed and that his refusal to do so constitutes a violation of the Staff Regulations and Rules that falls within the Tribunal's jurisdiction. In form, the complaint refers to the aforementioned decisions of the Director-General dated 10 April and 6 August 1963, and the memorandum specifies that "the complaint is directed against the Director-General", whereas the conclusions submit that the Tribunal should rule that the disputed elections were invalid and that new elections should be held according to a regular procedure, if necessary under the supervision of an official appointed by the Director-General. The Organisation submits that the Tribunal lacks jurisdiction to entertain the complaint.

IN LAW:

1. On the submission that the elections held on 28 March 1963 by the Staff Association should be declared void by the Administrative Tribunal:

No provision of its Statute, and in particular article II, empowers the Administrative Tribunal to adjudicate on such a submission.

2. On the submission that the decisions of the Director-General dated 10 April and 6 August 1963 should be rescinded:

The Staff Association of UNESCO is a body governed by its own organs under the terms laid down in its constitution.

With respect to the Association, its members or its acts, the Director-General of UNESCO may exercise only those powers granted to him by the Organisation's regulations.

None of these regulations empowers the Director-General to invalidate elections held by the Association to form its Executive Committee on the ground that such elections were irregular; in particular, neither the sentence in the Preamble of the Staff Regulations according to which the Director-General shall enforce the Regulations and Rules nor rule 108.1 of the latter, according to which the constitution of the Association shall be submitted to the Director-General for approval, can be regarded in any light as granting such a power to the Director-General.

Hence, by refusing to invalidate the elections held on 28 March 1963, the Director-General, far from violating the Staff Regulations and Rules, applied them correctly.

In the light of the foregoing - there being no need to order production of the document requested by Mr. Pilleboue, as this would have no bearing on the case - the aforementioned submission must fail.

#### DECISION:

1. The submission that the elections of 28 March 1963 should be rendered void is dismissed as falling outside the jurisdiction of the Tribunal.

2. The remainder of the complaint is dismissed.

In witness of this judgment, delivered in public sitting at Geneva on 1 December 1964 by Mr. Maxime Letourneur, President, Mr. André Grisel, Vice-President and Mr. Hubert Armbruster, Deputy Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Lemoine, Registrar of the Tribunal.

Signed:

M. Letourneur  
André Grisel  
H. Armbruster  
Jacques Lemoine