

Registry's translation, the French text alone being authoritative.

## FIFTIETH ORDINARY SESSION

In re USAKLIGIL (No. 2)

Judgment No. 553

### THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed against the World Tourism Organization (WTO) by Mr. Resdan Usakligil on 28 July 1982, the WTO's reply of 5 October, the complainant's rejoinder of 26 October and the WTO's surrejoinder of 17 November 1982;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written evidence, oral proceedings having been neither applied for by the parties nor ordered by the Tribunal;

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

A. In Judgment No. 463, delivered on 14 May 1981, the Tribunal quashed a decision by the Director-General of the WTO not to pay the complainant service benefit at the family rate. In several letters to the WTO he sought payment of the sum due to him by virtue of the Tribunal's decision, amounting to some 5,200 United States dollars. The last of these letters was dated 2 April 1982. On 20 April the WTO informed the Registrar that it was willing to meet its obligation but proposed making payment in 15 monthly instalments, no provision having been made in its budget. Having been informed by the Registrar of that proposal, the complainant wrote to the WTO on 26 June rejecting it and demanding full payment forthwith. By a letter of 19 May the President of the Tribunal invited the parties to discuss arrangements for payment between themselves. On 28 July the WTO wrote to the complainant again refusing to pay the sum in full and inviting him to make some other proposal. On the same day the complainant filed this complaint.

B. The complainant cannot agree that the WTO pay by instalments the modest sum due to him. There should be provision in its budget for paying service benefits to any staff who leave during the financial period. Besides, had the Executive Council of the WTO been promptly informed of the Tribunal's decision, it would presumably have approved a special allocation and not disavowed the WTO General Assembly's approval of the recognition of the Tribunal's competence by withholding the means of executing its decision. Salaries and benefits are paid in dollars and converted by the officials themselves into the local currency. Had the sum due to the complainant been promptly paid he might have invested it in dollars at a rate of interest not below 15 per cent a year. He accordingly asks that the WTO be ordered to pay him forthwith not only the full sum due but also compound interest thereon at the rate of 15 per cent a year from the date of Judgment No. 463.

C. In its reply the WTO invites the Tribunal to declare the complaint irreceivable. It observes that discussions were still going on when the complainant saw fit to file his complaint. Not only did he reject the Organization's proposal for meeting its obligation but he made no counter proposal nor sought a new proposal, nor awaited nor solicited from it a response to the President's letter. It is thus his own "intransigence" that has precluded a settlement. Furthermore, even supposing the Tribunal held the complaint receivable, the claim for payment of interest should fail. It would succeed only if the WTO itself was to blame for the breakdown in negotiations or ultimately refused to meet its obligation.

D. In his rejoinder the complainant maintains that the reply contains no justification for the WTO's dilatory tactics, of which the proposal of 20 April 1982 is but one example. He is in no way bound to make or solicit proposals for the execution of the judgment, nor to agree to any particular arrangements for settlement. Moreover, it ill befits an organisation whose bad faith is blatant to accuse him of intransigence.

E. In its surrejoinder the WTO reaffirms the arguments in its reply, observing in particular that its letter of 28 July

to the complainant showed that discussions were still in progress.

#### CONSIDERATIONS:

1. The Tribunal's judgments have the authority of *res judicata*. An international organisation which has recognised the Tribunal's jurisdiction is therefore bound, not merely to refrain from acting in disregard of a judgment, but first and foremost to take whatever action the judgment may require. That the judgment must be both respected and executed are thus principles which are beyond dispute, and they apply, in particular, where the organisation is ordered to pay a sum of money.

The debtor's obligation to pay must as a rule be discharged immediately unless the judgment states that the sum shall be payable only at some later date.

In Judgment No. 463, which it delivered on 14 May 1981, the Tribunal did not state that the service benefit payable by the WTO to the complainant should be paid at any particular date.

Although the Tribunal did not put a figure on the amount due, the WTO is not contending that it needed a specific period of time in which to make the calculation or that there was any point in the judgment which needed clarifying. The WTO acknowledges its debt and has worked out a figure which the complainant is not challenging. Whatever difficulties there may be in administering the Organization can have no effect on the complainant's entitlements under the judgment.

Judgment No. 463 of 14 May 1981 was accordingly immediately operative, there being no need for that to be expressly stated.

2. The complainant seeks, and is entitled to, payment of interest in compensation for the damage he has suffered through the WTO's delay in giving effect to the judgment of 14 May 1981. The Tribunal holds that adequate compensation will be made by awarding payment of interest at the rate of 10 per cent from the thirtieth day following the date on which Judgment No. 463 was notified to the Organization.

3. The WTO shall pay the complainant 500 United States dollars in costs.

#### DECISION:

For the above reasons,

1. The Tribunal will not rule on the claims relating to payment by the WTO of service benefit as ordered in Judgment No. 463 of 14 May 1981.

2. The sum due to the complainant shall bear interest at the rate of 10 per cent from the thirtieth day following the date on which Judgment No. 463 was notified to the WTO.

3. The other claims are dismissed.

4. The WTO shall pay the complainant 500 United States dollars in costs.

In witness of this judgment by Mr. André Grisel, President, Mr. Jacques Ducoux, Vice-President, and the Right Honourable Lord Devlin, P.C., Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Allan Gardner, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 30 March 1983.

(Signed)

André Grisel

Jacques Ducoux

Devlin

