

## **EIGHTY-FIFTH SESSION**

### ***In re Heitz (No. 5)***

#### **Judgment 1777**

The Administrative Tribunal,

Considering the fifth complaint filed by Mr. André Joseph Léon Heitz against the International Union for the Protection of New Varieties of Plants (UPOV) on 6 December 1996 and corrected on 6 January 1997, UPOV's reply of 14 July, the complainant's rejoinder of 24 July, the Union's letter of 5 September informing the Registrar of the Tribunal that it did not wish to enter a surrejoinder, the observations submitted by the International Civil Service Commission (ICSC) on 26 November 1997, the complainant's comments thereon of 6 January 1998, the Union's letter of 9 February informing the Registrar that it did not wish to comment on those observations, the ICSC's final brief of 25 March, and the Registrar's letter of 14 April 1998 giving the Union the opportunity, which it did not take up, of entering a final brief;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 13, paragraph 3, of its Rules;

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

Considering that the material facts of the case and the pleadings are identical to those set out, under A to G, in Judgment 1776 (*in re Damond No. 3 and others*), which the Tribunal also delivers this day;

#### **CONSIDERATIONS**

1. This case raises exactly the same issues as the complaints filed by Mrs. Andrée Damond and others on 6 December 1996 against the World Intellectual Property Organization (WIPO). The facts are much the same, the only difference being that here the defendant is UPOV. The material provisions of the Staff Regulations and Rules too are the same.

2. In Judgment 1776 the Tribunal dismisses the complaints of Mrs. Damond and the others. For the same reasons this complaint too is dismissed.

#### **DECISION**

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 20 May 1998, Mr. Michel Gentot, President of the Tribunal, Mr. Julio Barberis, Judge, and Mr. Jean-François Egli, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 9 July 1998.

*(Signed)*

Michel Gentot  
Julio Barberis  
Jean-François Egli

A.B. Gardner

