

## NINETY-SIXTH SESSION

**Judgment No. 2322**

The Administrative Tribunal,

Considering the thirty-seventh complaint filed by Mr F. P. against the European Southern Observatory (ESO) on 10 September 2003;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

### CONSIDERATIONS

1. The complainant, a former staff member of the ESO, is appealing directly to the Tribunal against a decision of 14 August 2003 by which the Observatory's Head of Administration rejected his request of 11 August 2003 for reimbursement of various medical and transport expenses which he had incurred in obtaining opinions from doctors in Italy and Germany. He considers that by the impugned decision, the ESO breached the terms of Judgment 2167, in which the Tribunal recalled that the Head of Administration had confirmed to the complainant "that if he were able to provide substantial evidence, such as [a] new medical opinion concerning his disease and the results of further medical examinations establishing a link between his state of health and his duties, the organisation would be willing to examine very carefully any claims that might arise from it". The complainant submits that this obliged him to undergo further medical examinations, the cost of which should not be borne by him.

2. The Tribunal notes that the Observatory placed no obligation on its former staff member and gave no undertaking as to the reimbursement of the expenses he felt bound to incur. As the case stands, there is neither any provision, nor any principle of law, on the basis of which the Observatory could be held liable to meet such expenses. The complaint must therefore be dismissed as clearly devoid of merit in accordance with the summary procedure provided for in Article 7 of the Rules of the Tribunal.

### DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 14 November 2003, Mr Michel Gentot, President of the Tribunal, Mrs Florida Ruth P. Romero, Judge, and Ms Mary G. Gaudron, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 4 February 2004.

*(Signed)*

Michel Gentot

Flerida Ruth P. Romero

Mary G. Gaudron

Catherine Comtet

Updated by PFR. Approved by CC. Last update: 20 February 2004.