

**TWELFTH ORDINARY SESSION**

***In re* PELLESTIER**

**Judgment No. 68**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the United Nations Educational, Scientific and Cultural Organisation drawn up by Mr. Guy Pelletier on 1 October 1962 and brought into conformity with the requirements of the Rules of Court on 18 October 1962, the reply of the Organisation dated 17 November 1962, the complainant's additional observations dated 22 November 1962 and the Organisation's reply to these observations dated 21 December 1962;

Considering paragraphs 5 and 6 of article II of the Statute of the Tribunal;

Having examined the documents in the dossier, oral proceedings and the hearing of the witnesses requested by the complainant having been disallowed;

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

A. The complainant states that he was in the paid employment of the Co-ordination Committee for International Voluntary Work Camps in August 1959; that, having fallen ill in the conduct of his duties, he requested sick leave on 28 August 1959; and then, following a deterioration in the state of his health, he was placed on extended sick leave from 1 March 1960 to 28 August 1962 and found himself deprived of all care and allowances.

B. The complainant requests the Tribunal to rescind the implicit rejection, resulting from the prolonged silence of UNESCO, of an appeal submitted on 28 August 1962, which would have the effect of recognition of the existence of a verbal contract for hire of services between the complainant and UNESCO for the period 16 August 1959 to 28 August 1962, and he claims, as a result of such rescission, the payment by UNESCO of the social security contributions due from it to the Paris Primary Social Security Fund, his reintegration and classification in the international civil service in accordance with his diminished capacity for work and the assistance which is due to him in the light of services rendered, and compensation for damages suffered on various counts.

C. UNESCO alleges that the complainant has never been an official of UNESCO, nor in its service in any capacity, and that the Co-ordination Committee for International Voluntary Work Camps, a non-governmental international organisation which maintains relations with UNESCO and which receives a subvention from it in return for the execution of specified work undertaken on the basis of specific contracts, is distinct from and independent of UNESCO and is not an emanation of it, and that consequently, under article II, paragraph 5, of its Statute, the Tribunal is not competent to deal with the request of Mr. Pelletier, submitted in the form of the complaint of 18 October 1962.

IN LAW:

1. Paragraph 6 of article II of the Statute of the Tribunal reserves access to the Tribunal to officials of the Organisations defined in paragraph 5 of the same article, which include UNESCO; to any person on whom an official's rights have devolved on his death; and to any other person who can show that he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.
2. The complainant does not supply any shred of proof of the existence of the contract of employment which he alleges was concluded verbally between him and UNESCO.
3. The Co-ordination Committee for International Voluntary Work Camps - a non-governmental organisation freely constituted, administered by its own organs, with its own financial resources obtained from contributions of member organisations and subventions which it administers independently - is not a service of UNESCO

Moreover, neither the fact of maintaining consultative relations with UNESCO as a Category A non-governmental organisation, nor the fact of executing specified tasks and of submitting reports on their execution in return for a fee paid by UNESCO, on the basis of contracts for the execution of material work or hire of services, has the effect of conferring on the agents of the Committee the status of employees of UNESCO

4. Consequently, irrespective of the real nature of the relationship between the complainant and the Co-ordination Committee for International Voluntary Work Camps, the complainant is not among the persons entitled, under the above- mentioned provisions, to refer a complaint to the Tribunal; his appeal is therefore irreceivable.

## DECISION

The complaint referred to above is dismissed as irreceivable.

In witness of this judgment, delivered in public sitting in Geneva on 11 September 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