

**EIGHTY-FOURTH SESSION**

***In re Wassef (No. 26)***

**(Application for execution)**

**Judgment 1702**

**The Administrative Tribunal,**

**Considering the application filed by Mr. Maher Nabih Wassef-Gerges on 3 July 1996 for the execution of Judgment 1486, the reply of 22 November from the Food and Agriculture Organization of the United Nations (FAO), the complainant's rejoinder of 21 December 1996 and the FAO's surrejoinder of 18 April 1997;**

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

**Having examined the written submissions;**

**CONSIDERATIONS**

**1. On 1 February 1996 the Tribunal delivered Judgment 1486 on Mr. Wassef's eighth complaint. It held that the illness which he had contracted in Chad in August 1993 must be presumed to be attributable to the performance of his duties. It therefore sent the case back to the Organization to determine his rights in accordance with the Staff Regulations and Staff Rules.**

**2. When the Tribunal delivered that judgment it did not know that on 19 June 1995 the FAO had recognised his illness as service-incurred. He filed an internal appeal against that decision on 28 June 1995, and the Organization answered in a memorandum of 25 July. Two days later he sent a minute to the Organization asking for clarification about the Director-General's recognition of the illness as "service-incurred". The same day the defendant answered in plain enough terms: "your illness is recognized as service-incurred by the Organization". There is no evidence before the Tribunal to suggest that the complainant pressed the appeal he had lodged on 28 June. The decision of 19 June 1995 therefore satisfied his claim and settled once and for all the issue relating to his illness. The defendant says that it paid him all the sums due to him in accordance with that decision, and the complainant does not challenge the proof it has provided for that statement.**

**3. Neither of the parties informed the Tribunal of the FAO's decision of 19 June 1995 to recognise the complainant's illness as service-incurred. The Tribunal regards that failure as a breach of the courtesy which the parties owed it.**

**4. The complainant states in his present complaint that the Organization has failed to execute point 1 of the ruling in Judgment 1486. He has filed what he calls an "Application for comprehensive execution for item 1 of Judgment 1486 ... including interpretation". That title is a misnomer. In fact, besides the application for execution, which the complainant founds on the alleged failure by the Organization to execute the Tribunal's ruling, he puts forward other claims which go beyond the ambit of the judgment.**

**5. As regards execution the FAO's decision of 19 June 1995 allowed his claim to recognition that the illness that he had contracted in Chad was service-incurred. Accordingly, the claims that he founds on failure to execute Judgment 1486 are irreceivable. As for those that go beyond the scope of the application for the execution of the judgment, he must first exhaust his internal remedies insofar as the Tribunal has not already ruled on those claims and they are not on that account irreceivable.**

**DECISION**

**For the above reasons,**

**The application is dismissed.**

**In witness of this judgment Mr. Michel Gentot, President of the Tribunal, Mr. Julio Barberis, Judge, and Mr. James K. Hugessen, Judge, sign below, as do I, Allan Gardner, Registrar.**

**Delivered in public in Geneva on 29 January 1998.**

*(Signed)*

**Michel Gentot**

**Julio Barberis**

**James K. Hugessen**

**A.B. Gardner**