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# ***ILO ADMINISTRATIVE TRIBUNAL***

## ***107<sup>TH</sup> SESSION CASE REVIEWS***

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### **Presented By:**

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I am pleased to provide a table listing the decisions of the ILO Administrative Tribunal (ILOAT) for its 107<sup>th</sup> Session in July 2009. The ILOAT decides appeals relating to disputes between staff members and international organisations. A listing of the organizations that accept the jurisdiction of the ILOAT follows on the next page. Judgments are issued twice per year in February and July.

The table presents the number of the judgment, the issues raised by the appeal, and the decision/award itself. The table provides a useful research tool when searching for ILOAT cases law that may apply in similar circumstances.

In Judgment No. 2861, in follow-up appeals to the Tribunal's Judgment No. 2742 (finding unlawful reassignment), the Tribunal awarded the former Chief of the internal watchdog unit (Internal Audit and Investigation Service) significant material and moral damages, and costs, for defamation, harassment and unlawful termination.

In Judgment No. 2838, the Tribunal found that the ILO breached the circular that was issued to prevent the abusive use of short-term contracts. The circular provided that a short-term contract or successive short-term contracts could not be issued for more than 171 days in 12 consecutive months. The complainant had been on short-term contracts for periods well in excess of the limit. In Judgment No. 2860, the Tribunal recognized the right to benefits for same-sex spouses.

### International Organizations Subject to ILOAT Jurisdiction

- International Labour Organization (ILO), including the International Training Centre
- World Health Organization (WHO), including the Pan American Health Organization (PAHO)
- International Telecommunication Union (ITU)
- United Nations Educational, Scientific and Cultural Organization (UNESCO)
- World Meteorological Organization (WMO)
- Food and Agriculture Organization of the United Nations (FAO), including World Food Programme (WFP)
- European Organization for Nuclear Research (CERN)
- World Trade Organization (WTO)
- International Atomic Energy Agency (IAEA)
- World Intellectual Property Organization (WIPO)
- European Organisation for the Safety of Air Navigation (Eurocontrol)
- Universal Postal Union (UPU)
- European Southern Observatory (ESO)
- European Free Trade Association (EFTA)
- Inter-Parliamentary Union (IPU)
- European Molecular Biology Laboratory (EMBL)
- World Tourism Organization (UNWTO)
- European Patent Organisation (EPO)
- African Training and Research Centre in Administration for Development (CAFRAD)
- Intergovernmental Organisation for International Carriage by Rail (OTIF)
- International Center for the Registration of Serials (CIEPS)
- International Office of Epizootics (OIE)
- United Nations Industrial Development Organization (UNIDO)
- International Criminal Police Organization (Interpol)
- International Fund for Agricultural Development (IFAD)
- International Union for the Protection of New Varieties of Plants (UPOV)
- Customs Co-operation Council (CCC)
- Court of Justice of the European Free Trade Association (EFTA Court)
- Surveillance Authority of the European Free Trade Association (ESA)
- International Service for National Agricultural Research (ISNAR) (until 14 July 2004)
- International Organization for Migration (IOM)
- International Centre for Genetic Engineering and Biotechnology (ICGEB)
- Organisation for the Prohibition of Chemical Weapons (OPCW)
- International Hydrographic Organization (IHO)
- Energy Charter Conference
- International Federation of Red Cross and Red Crescent Societies
- Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO PrepCom)
- European and Mediterranean Plant Protection Organization (EPPO)
- International Plant Genetic Resources Institute (IPGRI)
- International Institute for Democracy and Electoral Assistance (International IDEA)
- International Criminal Court (ICC)
- International Olive Oil Council (IOOC)
- Advisory Centre on WTO Law
- African, Caribbean and Pacific Group of States (ACP Group)

*ILOAT 107<sup>th</sup> Session Table of Cases*

| <b>Number</b> | <b>Organization</b> | <b>Issue</b>  | <b>Decision</b>  |
|---------------|---------------------|---|--|
| 2815          | WHO                 | Res Judicata / Summary Dismissal                              | Dismissed  |
| 2816          | EPO                 | Application for review  | Dismissed  |
| 2817          | WHO                 | Reassignment/Bad faith  | Decision partly set aside; reinstatement; 10,000 swf moral damages; 5,000 swf costs                    |
| 2818          | FAO                 | Agreed termination / Termination indemnity                    | Dismissed  |
| 2819          | EPO                 | Transfer / Job description                                    | Decision set aside; ordered reassignment; 25,000 euros moral damages; 5,000 euros costs                |
| 2820          | FAO                 | Receivability / Delay in internal appeal                      | 1,000 euros moral damages for delay; 500 euros costs; all other claims dismissed                       |
| 2821          | ILO                 | Receivability / Status  | Dismissed  |
| 2822          | EUROCONTROL         | Receivability / General decision                              | Dismissed  |
| 2823          | EPO                 | Promotion / Calculation of reckonable experience/New decision | Dismissed  |
| 2824          | ILO                 | Classification  | Dismissed  |
| 2825          | EPO                 | Receivability / Final Decision                                | Dismissed  |
| 2826          | ITU                 | Application for review / Marital status                       | Dismissed  |
| 2827          | EPO                 | Staff Union / Collective Interest                             | Dismissed  |
| 2828          | IOOC                | Repatriation - Service Grant                                  | Decision set aside; service grant due; and 1,000 euros costs   |
| 2829          | WIPO                | Suspension/Delay/Res judicata in internal appeal              | 3,000 and 10,000 swf moral damages, 3,000 swf costs  |
| 2830          | WIPO                | Termination/Redeployment                                      | Decision set aside; 12,000 swf damages, 5,000 swf costs  |
| 2831          | WIPO                | Termination/Receivability                                     | Decision set aside; 5,000 swf damages, 3,000 swf costs   |
| 2832          | EPO                 | Appointment/Receivability/ Cause of action                    | Dismissed  |
| 2833          | ILO                 | Selection   | Dismissed  |
| 2834          | EPO                 | Selection   | Dismissed  |
| 2835          | EPO                 | Selection   | Dismissed  |
| 2836          | ILO                 | Non-extension / Performance                                   | Dismissed  |
| 2837          | ILO                 | Promotion   | Decision set aside; case remanded to organization for further proceedings; 1,500 swf costs             |
| 2838          | ILO                 | Non-renewal / Receivability / Contract                        | Decision set aside; 30,000 swf damages; 2,000 swf costs  |
| 2839          | WHO                 | Reassignment / Harassment / Receivability                     | Decisions partly set aside; 30,000 euros moral damages; 2,000 euros costs; referral to Grievance Panel |
| 2840          | WHO                 | Receivability / Exit Medical Examination                      | Complaint receivable; referral to organization for reply on the merits                                 |
| 2841          | UNIDO               | Receivability / Abolition of Post / Delay                     | 1,500 euros damages for delay in internal appeal; 800 euros costs; all other claims dismissed          |
| 2842          | ESO                 | Mutual Termination  | Dismissed  |

|             |             |   |  |
|-------------|-------------|---|--|
| 2843        | EPO         | Work-related Accident /<br>Duty of Care   | Dismissed  |
| 2844        | WHO         | Classification / Delay /<br>Selection   | 5,000 USD moral damages; 1,500 USD costs;<br>all other claims dismissed  |
| 2845        | UPU         | Deferral of Retirement /<br>Breach of Authority /<br>Equality                         | Decision set aside; damages in amount of 6<br>months' salary, benefits with interest; 5,000 swf<br>moral damages; 5,000 swf costs  |
| 2846        | EPO         | Retroactive Promotion /<br>Invalidity Pension / Abuse<br>of Discretionary Authority   | Decision set aside; award of salary difference<br>for retroactive promotion; 2,500 euros costs   |
| 2847        | EUROCONTROL | Family Allowance  | Dismissed  |
| 2848        | UNIDO       | Appointment   | Dismissed  |
| 2849        | FAO         | Dismissal / Misconduct  | Dismissed  |
| 2850        | EUROCONTROL | Non-Renewal / Performance<br>Appraisal / Procedure                                    | Decisions set aside; 10,000 euros<br>compensation; 2,000 euros costs   |
| 2851        | UNESCO      | Classification / Delay  | 1,000 euros moral damages for delay, 800<br>euros costs; complaint otherwise dismissed   |
| 2852        | FAO         | Selection   | Dismissed  |
| 2853        | IFRC        | Performance appraisal   | Costs granted otherwise dismissed since staff<br>member filed internal appeal – see<br>consideration 6   |
| <b>2854</b> | <b>IFRC</b> | <b>Termination – hidden<br/>disciplinary measure</b>                                  | <b>Decision set aside; 4' months gross salary<br/>and emoluments; 20,000 SWF moral<br/>damages; 5,000 SWF costs.</b>   |
| 2855        | FAO         | Application for<br>interpretation and execution                                       | Dismissed  |
| 2856        | ILO         | Restructuring/reassignment  | Dismissed  |
| 2857        | EPO         | Contribution rate changed<br>for death and permanent<br>invalidity insurance          | Decision set aside and remanded for further<br>proceedings.  |
| 2858        | EPO         | Action to recover<br>contributions for death and<br>permanent invalidity<br>insurance | Dismissed – see companion case 2857  |
| 2859        | EPO         | Promotion   | Dismissed – dissenting opinion J. Gordillo<br>("The principles of proportionality,<br>reasonableness, equal treatment and fairness,<br>which are all higher-ranking general principles<br>of law . . .). |
| 2860        | FAO         | Action for dependency<br>benefits based on same-sex<br>civil solidarity compact       | Decision set aside; dependency benefits<br>granted with retroactive effect; 10,000 euros<br>moral damages, 3,000 euros costs   |
| 2861        | WMO         | Harassment-termination  | Decision set aside; P-5 salary and benefits for 7<br>months with 8% interest; 170,000SWF moral<br>damages, and 25,000SWF costs   |