

Francisco A. FORTEZA
Member
Geneva, 22 April 1980

Jean HARDY
Executive Secretary

Judgement No. 254

(Original: English)

Case No. 229:
Fernández-López

**Against: The Secretary-General
of the United Nations**

Request for rescission of a decision taken by the Secretary-General on the recommendation of the Advisory Board on Compensation Claims.

Claim for compensation filed by the widow of a staff member of UNCTAD killed in an accident while riding in a car driven by his hierarchical superior.—Controversy as to whether the route taken to the Palais des Nations was direct or indirect.—The law applicable in the case.—Staff Regulation 6.2 and Staff Rule 106.4.—Inapplicability of the internal laws relied on by the Applicant.—The “general rule” of the United Nations referred to by the Respondent.—Respondent’s contention that, according to that rule, if a staff member does not travel to work by a direct route, the travelling cannot be attributed to the performance of official functions.—Inapplicability of that rule.—The Applicant’s husband was performing his official duties when he accepted his superior’s invitation to travel to the office in his private car.—Inapplicability of article 2 (b) (iii), in fine, of appendix D to the Staff Rules.—Validity of the Applicant’s claim for compensation.—The contested decision is rescinded.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Madame Paul Bastid, President; Mr. Endre Ustor, Vice-President;
Mr. Samar Sen;

Whereas at the request of Mrs. Fernández-López, the Applicant herein and the widow of Mr. Juan José Fernández-López, a former staff member of the United Nations Conference on Trade and Development, hereinafter called UNCTAD, the President of the Tribunal, with the agreement of the Respondent, extended successively to 30 April 1978, 31 May 1978, 31 July 1978 and 10 August 1978 the time-limit for the filing of an application to the Tribunal;

Whereas, on 15 August 1978, the Applicant filed an application the pleas of which read as follows:

“1. The Tribunal is requested to rescind the decision of the Secretary-General, reached on the advice of the Advisory Board on Compensation Claims [ABCC] and communicated to the Applicant by letter of 31 January 1977, refusing the Applicant’s

claim for compensation for the death of her husband in an automobile accident.

"2. The Tribunal is further requested to establish that the death of the Applicant's husband on 23 March 1975 occurred as a direct result of travelling by means of transportation furnished by or at the direction of the United Nations in connexion with the performance of official duties on behalf of the Organization in accordance with article 2 (a) and (b) (iii) of Appendix D to the Staff Rules and that the Applicant and her three dependent children are therefore entitled to retroactive annual compensation as provided for by article 10.1 and 10.2 of Appendix D to the Staff Rules.";

Whereas the Respondent filed his answer on 29 January 1979;

Whereas the Applicant filed written observations on 14 March 1980;

Whereas additional information was submitted by the Applicant on 22 April 1980 at the request of the Tribunal;

Whereas the facts in the case are as follows:

Mr. Fernández-López was serving as an External Relations Officer in the External Relations Section of the Division for Conference Affairs and External Relations of UNCTAD under a permanent appointment. The Acting Chief of the Section was Mr. G. Krasnov and the Director of the Division was Mr. Jean-Pierre Martin. On 23 March 1975, according to the Applicant, Mr. Martin telephoned Mr. Fernández-López who lived in Meyrin (Geneva), to ask him to attend with him to some urgent business in the Palais des Nations at Geneva:

"On Sunday 23 March at 11.15 a.m., I answered a telephone call from Mr. J-P Martin who asked to speak to my husband. My husband was leaving at that moment with our children to attend Sunday mass but returned and answered the call.

"After the telephone call my husband told me that Mr. Martin had said that he needed to see him urgently to revise and finalize some work which had to be completed by Monday morning. My husband suggested to Mr. Martin that they meet at the office in the afternoon, since after mass he had already arranged to have lunch with a couple of personal friends and he had to go to the office to meet Mr. Krasnov in the afternoon. Mr. Martin indicated to him that he was occupied in the afternoon but that they could finish the matters pending very briefly in half-hour. My husband then suggested that they could meet at the office at about 1.00 p.m., after mass. Mr. Martin replied that he would pass by our house and meet him there.

"At around 1.30 p.m., Mr. Martin arrived at our house and after a few minutes my husband told me that they had to leave briefly to check some papers in the office but that he would join me and our friends at the restaurant where Mr. Martin would take him after the office. He took the keys of this office and left the house with Mr. Martin. I and our friends left in their car for the restaurant and waited there for his return."

At 1.50 p.m., in the Commune of Versoix, Mr. Martin's car left the road, struck a tree and burst into flames, and both he and his passenger, Mr. Fernández-López, were killed instantly. The gendarmerie of the Canton of Geneva issued a report on the accident on the following day. In a memorandum of 7 April 1975 Mr. Krasnov brought to the attention of the Chief of the Personnel Section of UNCTAD "certain facts" in connexion with the death of Messrs. Martin and Fernández-López which might "be of some help

in handling the problem of financial support to their families''. On 9 April 1975 the Applicant addressed to the Secretary-General of the United Nations a claim for compensation under Appendix D to the Staff Rules, accompanied by the statement quoted above. Having been requested by the Applicant to forward her statement and her claim for compensation to the Secretary-General of the United Nations, the Secretary-General of UNCTAD transmitted them to the Director-General of the United Nations Office at Geneva, together with Mr. Krasnov's memorandum of 7 April 1975, under a letter dated 11 April 1975 concluding as follows:

"It seems to me clear that, from the events as described by the two widows, the tragic death of our two colleagues was directly related to the performance of work for the United Nations. I expressed, as you will recall, the same view at the time of the ceremony to which I have referred above. Therefore, I would be grateful if you would transmit my present letter, together with the enclosed dossiers, to the Secretary-General of the United Nations at Headquarters where I trust that the claims of Mrs. Martin and Mrs. Fernández-López will be favourably acted upon."

That letter, together with the enclosed dossiers, and the police report on the accident were transmitted to Headquarters on 18 April 1975 under a memorandum from the Chief of the Personnel Division of the United Nations Office at Geneva to the Director of the Division of Personnel Administration stating:

"Please find enclosed a request by Mr. Gamani Corea, Secretary-General of UNCTAD, with which the Director-General agrees, that the claims of the widows of the two above-mentioned staff members be submitted to the Advisory Board on Compensation Claims for review in accordance with the provisions of Appendix D to the Staff Rules. . . ."

Finally, on 1 May 1975 the Director of the Division of Personnel Administration transmitted the papers to the Secretary of ABCC with a memorandum in which he stated:

"I have read the claims by Mrs. Martin and Mrs. Fernández-López as well as the police report and in transmitting these papers to you, I have no intention to express any opinion with regard to the validity of these claims except to refer to article 2 (b) of Appendix D, which would seem to rule out the attributability of the accident to the performance of official functions."

The Secretary of ABCC having asked for supplementary information concerning the accident, the Deputy Chief of the Personnel Administration Section of the United Nations Office at Geneva sent him the following memorandum on 22 May 1975:

" . . .

"I am enclosing for your information a map of the canton of Geneva and two photocopies of a portion which shows the distances between the homes of the two late staff members, the place of the accident and the Palais des Nations. Mr. Martin lived in Chêne Bougeries and Mr. Fernández-López lived in Meyrin.

"There is no direct public transportation between Meyrin and the Palais des Nations, Chêne Bougeries and the Palais des Nations, or Chêne Bougeries and Meyrin. To make these journeys by public transport, namely by bus, it would be necessary to take a bus into the centre of town in each case to change to another line. On Sundays, on the lines in question there is normally a bus only every half-

hour. For most staff members, the normal means of transportation when travelling to and from these areas is by private car.

"The normal and most direct route by car from Meyrin to the Palais des Nations is via Ferney-Voltaire, Grand Saconnex and Route de Ferney, or via Petit Saconnex and Route de Ferney. We do not know why the late staff members were apparently travelling on a subsidiary and less direct route.

"We have been unable to contact Mrs. Martin regarding the automobile insurance as she is currently absent from Geneva and will not be returning until next week. We understand, however, that Mr. Martin had the normal third-party liability insurance, which gives partial coverage for passenger insurance. When Mrs. Martin returns to Geneva, we will try to obtain a copy of the insurance policy.

"According to the family of the late Mr. Fernández-López, the insurance company has not yet replied to a request for passenger compensation.

"We hope the above information will help the Board in its consideration of the case. If any further details, or investigation of the facts, are required, we will be glad to be of assistance."

On 5 June 1975 the Secretary of ABCC requested the Chief of the Personnel Division of the United Nations Office at Geneva to submit additional information on the following points:

"(a) *Supervisory opinion*—It is realized that Mr. Martin, being a senior officer, would be largely responsible for his own work programme. However, the Board wishes to have a report from the senior staff of UNCTAD to indicate that there was work of sufficient priority to warrant the presence of staff at the office on Sunday. Additionally, it was noted that it was usual that in the case of serious accidents, etc., there should be an official report covering the circumstances of the event. In this case, apart from the report covering the actual physical circumstances of the accident, the only information available are the statements by the widows, based upon their recollection of a telephone call, and made some time after the fact. The Board felt that it should have such an official report as a basis for its consideration of the cases.

"(b) *Routing*—As I indicated to you during your visit to New York, this point has raised a difficulty. The Board noted that it has been generally agreed (with the agencies) that to be compensable, the staff member must have been proceeding by a recognized direct routing. On the basis of the information available here, it is difficult to recognize that the route followed could be a direct route. It is not sufficient to say that it was a route that Mr. Martin occasionally used. It was also noted that in Mrs. Martin's statement, there was reference to the fact that 'he was going in that direction [Meyrin?] for some errands'.

"The Board would appreciate it if the official report referred to above would include some discussion of this route, whether it is really a recognized direct routing from the Meyrin area to the Palais, and whether the errands referred to would have accounted for this routing, i.e., their presence in the area of Versoix."

Following that request ABCC was seized of various documents, namely:

(1) A memorandum dated 30 June 1975 from the Officer-in-Charge of the Division for Conference Affairs and External Relations of UNCTAD to the Chief of the Personnel

Division of the United Nations Office at Geneva which dealt with the question of "supervisory opinion" and stated, *inter alia*:

"It was generally known in this Division that Mr. Martin normally spent some time in the office on weekends. This weekend of the accident followed immediately upon the sixth special session of the Trade and Development Board, which ended on the evening of Friday, 21 March. Both Mr. Martin and Mr. Fernández-López had had a particularly heavy week, not only because of the Board session, but because both had been required to be away from their desks in order to attend other meetings.";

(2) A report dated 1 July 1975 from the Chief of the Security Unit and the Chief of the Secretariat Recruitment Section to the Chief of the Personnel Division of the United Nations Office at Geneva on routes and road conditions between Meyrin and the Palais des Nations; and

(3) A memorandum dated 3 July 1975 from the Chief of the Personnel Section of UNCTAD to the Chief of the Personnel Division of the United Nations Office at Geneva offering comments on the route followed by Mr. Martin.

On 4 February 1976 ABCC adopted the following recommendation on the Applicant's claim:

"The Advisory Board on Compensation Claims,

" . . .

"Noting that the evidence submitted does not permit the conclusion that the death was attributable to the performance of official duties or that it occurred while the deceased was on the direct route to or from work between his home and place of work;

"Recommends to the Secretary-General that the claim for benefits under article 10 of Appendix D lodged by the widow of the late Juan José Fernández-López be denied."

On 22 May 1976 the Secretary-General of the United Nations approved that recommendation and on 2 June 1976 the Applicant was informed accordingly. On 26 June 1976 she asked the Secretary-General to reconsider that decision in a letter reading in part:

"As I believe that the death of my husband occurred while he was acting on instructions of his supervisor, a Director of the United Nations Organization who was driving his car on a route of his own choice, and was therefore directly attributable to the performance of official duties for the Organization, I must request you to reconsider the above decision and grant to my children and myself the benefits provided for under Appendix D of the U.N. Staff Rules. Otherwise, I shall appreciate it if you could advise me of the procedures for appeal and how I, or my representative, can have access to the proceedings and documentation considered by the Board in this case."

On 15 December 1976 the Applicant wrote to the Secretary-General a further letter reading:

"Following the advice of the Office of Personnel and with further reference to my letter to you of 9 April 1975, I am hereby appealing, in accordance with the provisions of Staff Rule 111.3 for your review of the administrative decision denying, to me and my children, our claim for benefits under Appendix D to the Staff Rules, in respect of the accidental death of my husband. This denial has been based on the

recommendation of the Advisory Board on Compensation Claims which considered, as per letter of its Secretary dated 2 June 1976, that the death was not attributable to the performance of official duties and that it did not occur while he was on a direct route to or from work.

“It is still my contention that the death of my husband was attributable to the performance of official duties for the United Nations and in reviewing this matter you might wish to consider the following factors.

“Staff Regulation 1.2 provides that ‘staff members are subject to the authority of the Secretary-General . . . the whole time of staff members shall be at the disposal of the Secretary-General’.

“The initial and direct action which led to the death of my husband was a telephone call from a Senior Director of the United Nations, under whose authority my husband was working; by such telephone call this Director summoned my husband to proceed to the office and decided to take him in his own private automobile. Given their hierarchical positions and the limited nature of any other personal relationship, it is excluded that the purpose of such call and subsequent travel in the automobile of the Director might have been other than related to the official work they were engaged on. The fact that the telephone call and the trip was in connection with the official functions of my husband is supported not only by his own statement to me after receiving the call and before leaving our home in the car of his Director, but also substantiated by declarations made by third parties including other United Nations officials. As corroborated by the Chief of the UNCTAD External Relations Section (in which my husband was serving) there was an exceptionally heavy workload which required to be completed by my husband in consultation with his Director during the weekend in which the accident happened. The wife of the Director also confirmed that the object of the telephone call was to ensure the completion of official work.

“After the accident, there was no doubt among the colleagues and supervisors of my husband in UNCTAD, who were more intimately aware of all the circumstances, that his death was directly attributable to his work for the United Nations. In a memorial ceremony held at the Palais des Nations on 26 March 1976, attended by most of the heads of delegations of Member countries in Geneva and by staff members of UNCTAD and the UN, the Secretary-General of UNCTAD emphatically declared that ‘the tragic death . . . was directly related to the performance of work for the United Nations’. This is confirmed in a letter addressed by Mr. Corea (Secretary-General of UNCTAD) to Mr. Winspeare Guicciardi [Director General of the United Nations Office at Geneva] on 11 April 1975.

“Concerning the assertion of the Board on Compensation Claims that my husband’s death did not occur while he was on a direct route to or from work, I must recall that in my appeal to you of 9 April 1975, I did not make any such contention, which is irrelevant under the circumstances and in as much as the specific case of my husband is concerned. Since my husband was under direct instruction from the Director of the Division in which he was serving the United Nations, he was under his authority, in the sense of the above-mentioned Staff Regulation 1.2, from the moment they met at our apartment and therefore his death occurred while he was on duty, as a direct result of travelling by means of transportation furnished by the United Nations in connection with the performance of official duties. The

itinerary selected by his Director was undoubtedly his own choice without any possibility for my husband to object to the decisions of his Director under whose authority and direction he was acting.

“In view of the facts of this case and the above considerations, I am confident that you will allow my children and myself the benefits provided under Appendix D to the Staff Rules.”

On 31 January 1977 the Assistant Secretary-General for Personnel Services informed the Applicant of the Secretary-General's decision as follows:

“ . . .

“Article 2 (b) (iii) *in fine* of Appendix D excludes from the generality of the preceding provisions of the same article injury or death resulting from private motor vehicle transportation, except where this mode of travel was sanctioned or authorized by the United Nations for reasons other than the convenience of the staff member. Furthermore, in the case under review there was, to begin with, no sanction or authorization at all, for whatever reason, of the use of the late Mr. Martin's private automobile for his own transportation or for that of the other staff members. The use by any staff member of his or a colleague's private automobile for transportation in and around the duty station or to any particular destination is a personal arrangement of which he alone assumes the attendant risks. This is the rationale behind the exclusion from compensability of the incidents of private motor vehicle transportation even when sanctioned or authorized by the Organization, if the said authorization was given at the staff member's request and for his convenience. The fact that your late husband was invited by his supervisor to share a ride in his private automobile still could not extend to the accident the coverage of Appendix D.

“For the above reason the Secretary-General, having reviewed the decision of which you have complained, has regrettably found no grounds for reversing it and has therefore decided that it be maintained.

“I should add a few words on the procedure to be followed in case you wish to pursue the matter further. As you may be aware, both the Advisory Board on Compensation Claims and the Joint Appeals Board are advisory bodies to the Secretary-General. It would, therefore, be an unnecessary and wasteful duplication to appeal to the Joint Appeals Board a decision taken upon the recommendation of the Advisory Board on Compensation Claims. This is why it has been our practice to have the interested party apply directly to the Administrative Tribunal in such cases. . . .”

On 15 August 1978 the Applicant filed with the Tribunal the application referred to earlier.

Whereas the Applicant's principal contentions are:

1. The situation foreseen in the proviso contained in the second sentence of article 2 (b) (iii) of Appendix D to the Staff Rules is that of a staff member who suffers death or injury while travelling in his own vehicle on his way to or from work at the United Nations on an ordinary working day. The situation, however, becomes substantially different where a staff member is instructed by his hierarchical superior to attend to some official business outside normal working hours and suffers a traffic accident while travelling in his own private car. *A fortiori* where the staff member is advised by his superior

that he is to travel to the appointed place of work in a vehicle supplied by the supervisor and he suffers death or injury as a result, it would be contrary to the wording and intention of article 2 (b) (iii) to construe it as exempting the United Nations from liability for compensation.

2. The interpretation of article 2 (b) (iii) submitted above is also in line with the rule laid down by British and American courts in cases involving workmen's compensation. Whether or not Mr. Martin had been expressly authorized by the United Nations to use his own car need not concern Mr. Fernández-López who was under Mr. Martin's orders. Mr. Fernández-López's death clearly occurred as he was travelling by means of transportation furnished by or at the direction of the United Nations in connexion with the performance of official duties.

Whereas the Respondent's principle contentions are:

1. Personal injury or death arising out of accidents taking place while a staff member is travelling to work along a direct route is now considered to be attributable to the performance of official functions for the United Nations and compensable under Appendix D to the Staff Rules.

2. The applicable law is to be found in the contractual employment relationship established by the staff member's appointment.

3. The cases cited in the application are irrelevant.

4. The recommendation of ABCC was based on a conscientious inquiry and effort to establish relevant facts.

5. The evidence did not support a conclusion of attributability to the performance of official functions for the United Nations. While there is no evidence calling into question the probability that the two staff members intended to consult on official matters at the office on that afternoon, the direction of travel as well as the location of the accident do not indicate that the staff members were on a direct route to their offices at the time of the accident.

6. The means of transportation was not furnished by or at the direction of the United Nations. Mr. Martin did not have authority to approve the use of a private automobile, including his own, for official travel. Furthermore, the arrangements regarding the use of Mr. Martin's automobile were entered into voluntarily.

The Tribunal, having deliberated from 14 April to 23 April 1980, now pronounces the following judgement:

I. The events of Sunday 23 March 1975 as put forward by the Applicant and described above are not contested by the Respondent. The latter "concedes that there is no evidence calling into question the probability that the two staff members intended to consult on official matters at the office on that afternoon."

II. The controversy between the parties relates to the conclusions to be drawn from the circumstances of the travel undertaken by Mr. Martin and Mr. Fernández-López. The Respondent submits that the direction of the travel and the location of the accident do not indicate that the two staff members were on a direct route to their offices at the time of the accident and this according to his view makes it doubtful whether the Palais des Nations was their next destination.

The Applicant contends that the fact that the two men travelled along a less direct route does not disprove that their destination was the Palais des Nations. She concedes

that the route chosen by them was about 8 kilometres longer than the longest of the direct routes available, but believes that it is quite rational to assume that the driver of the automobile decided that it would be faster or more pleasant or both to take a roundabout but uncongested route rather than one of the more direct routes believed by him to be more congested.

III. The law applicable in this case is contained in Staff Regulation 6.2 which refers to "reasonable compensation in the event of illness, accident or death attributable to the performance of official duties on behalf of the United Nations" and in Staff Rule 106.4 which states the identical basic rule and refers to the more detailed provisions contained in Appendix D to the Staff Rules.

IV. While both parties recognize that the applicable law is anchored in the sources quoted above, the Applicant relies, in addition, on the internal laws of certain countries relating to similar situations and the Respondent refers to a "general rule in United Nations practice" which was adopted as a policy "following consultations between representatives of the United Nations and the specialized agencies with a view to co-ordinating the administrative practices of the organizations in the 'common system'".

V. With respect to the application of the internal laws of certain countries regarding compensation, the Tribunal finds no necessity for changing its attitude adopted in a previous case (Judgement No. 129, *Gallianos*) according to which there is no justification for the Tribunal to consider the application of such laws.

VI. As to the "general rule in United Nations practice" referred to by the Respondent, it provides, according to him, that the travelling of a staff member to work along a direct route is attributable to the performance of his official functions and consequently personal injury or death arising out of accidents occurring during such travelling are compensable under Appendix D to the Staff Rules.

The Respondent points out that this "general rule" was adopted as a common policy of the United Nations and the specialized agencies following consultations among their respective representatives.

While the Respondent makes a clear distinction between this "general rule" and the law applicable in this case as stated in paragraph III above, he heavily relies on the "general rule". He bases his main argument on the assumption that under the "general rule" the travelling to work of a staff member along a route which is not "direct" cannot be attributed to the performance of official functions.

In this connexion the Tribunal, in view of the special circumstances of the case, deems it sufficient to observe that a rule adopted through interorganizational consultations—if it goes beyond a simple interpretation of existing regulations and rules—cannot be considered as governing the relations between the Administration and the staff of an organization. To be applicable, such a rule must be incorporated in the individual terms of appointment or in rules duly established by the international organization concerned.

VII. In application of the law mentioned in paragraph III above, the Tribunal finds that Mr. Fernández-López performed his official duties when he accepted Mr. Martin's invitation to go to the offices of UNCTAD for consultation. Although this was on a Sunday, Mr. Fernández-López was obliged to accept this invitation: Staff Regulation 1.2 lays down that "... The whole time of staff members shall be at the disposal of the Secretary-General" and Staff Rule 101.2 (c) provides that "A staff member shall be required to work beyond the normal tour of duty whenever requested to do so".

It was Mr. Martin who requested Mr. Fernández-López to travel to the office in his private car. This request, coming from the Director of a Division in which Mr. Fernández-López worked in a subordinate capacity, could reasonably be considered by him as his employer's wish. Contrary to what the Respondent suggests, it would not be a reasonable expectation that a subordinate staff member in the given circumstances should inquire from his superior whether he has or has not the authority to use his car for official travel or to insist on the use of public transport. Such conduct could have been regarded as a refusal of his superior's instructions.

VIII. Such questioning by Mr. Fernández-López was moreover not required by any relevant rule or regulation. Article 2 of Appendix D to the Staff Rules provides in part:

“(a) Compensation shall be awarded in the event of death, injury or illness of a staff member which is attributable to the performance of official duties on behalf of the United Nations . . .

“(b) Without restricting the generality of paragraph (a), death, injury or illness of a staff member shall be deemed to be attributable to the performance of official duties on behalf of the United Nations in the absence of any wilful misconduct or wilful intent when:

“(i) The death, injury or illness resulted as a natural incident of performing official duties on behalf of the United Nations; or

“. . .

“(iii) The death, injury or illness occurred as a direct result of travelling by means of transportation furnished by or at the expense or direction of the United Nations in connexion with the performance of official duties; provided that the provisions of this sub-paragraph shall not extend to private motor vehicle transportation sanctioned or authorized by the United Nations solely on the request and for the convenience of the staff member; . . .”.

Article 2 (b) (iii) *in fine* is not intended to regulate the problems arising out of accidents occurring as a result of travelling of staff members to and from their normal place of work. It relates obviously to any other kind of official travel, for instance when a staff member instead of travelling by train wishes to use his own car. This may be authorized for his convenience and at his own risk. The travelling by car to and from the normal place of work needs no authorization. A more extensive interpretation of this provision as put forward in the Secretary-General's decision communicated to the Applicant by letter of 31 January 1977 is inadmissible. The Respondent himself in his answer states that “the discussion and the arguments pertaining to article 2 (b) (iii) *in fine* are not relevant to the issue at hand”.

IX. While observing that the Rules governing compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations as contained in Appendix D to the Staff Rules and particularly the principles of award set out in article 2 of these Rules do not regulate in sufficient detail the cases of accidents taking place during the travel of staff members to and from work, the Tribunal finds that in the present case these Rules support the validity of the Applicant's claim. The death of Mr. Fernández-López is, according to article 2 (a) of Appendix D to the Staff Rules, attributable to the performance of his official duties since he was travelling

as instructed by his superior officer. The question of taking a direct or indirect route to work—a point which moreover is not mentioned in Appendix D to the Staff Rules—does not arise because the choice in this respect was not that of Mr. Fernández-López.

X. On the basis of the above considerations, the Tribunal rescinds the decision of the Secretary-General communicated to the Applicant by letter of 31 January 1977 and rules that the Applicant and her dependent children are entitled to compensation as provided in Staff Rule 106.4 and in Appendix D to the Staff Rules.

(Signatures)

Suzanne BASTID
President

Samar SEN
Member

Endre USTOR
Vice-President

Jean HARDY
Executive Secretary

Geneva, 23 April 1980

Judgement No. 255

(Original: French)

Case No. 214:
Teixeira

Against: **The Secretary-General
of the United Nations**

Request for revision of Judgement No. 233.

Request for revision.—Article 12 of the Statute of the Tribunal.—Judgement No. 73.—The Tribunal finds that the application does not mention any newly discovered fact.—Request rejected.—Subsidiary requests.—Rejected.—Application rejected.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Madame Paul Bastid, President; Mr. Francisco A. Forteza; Mr. T. Mutuale; Mr. Francis T. P. Plimpton, Vice-President, alternate member;

Whereas, on 27 September 1979, the Applicant filed an application with the Tribunal in which he requested, *inter alia*, a revision of Judgement No. 233 rendered in his case on 13 October 1978:

Whereas the pleas in the application are as follows:

“Considering articles 11 and 12 of the Statute of the Administrative Tribunal of the United Nations and articles 17, 23, 24 and 27 of the Rules of the Tribunal, the Applicant requests the Tribunal: