

ADMINISTRATIVE TRIBUNAL

Judgement No. 393

Case No. 322: YAKIMETZ

Against: The Secretary-General  
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Samar Sen, President; Mr. Arnold Kean, Vice-President; Mr. Endre Ustor;

Whereas by a letter dated 28 August 1984, the Secretary-General of the United Nations informed the International Court of Justice that the Committee on Applications for Review of Administrative Tribunal Judgements established by General Assembly resolution 957(X) had, pursuant to article 11 of the Statute of the United Nations Administrative Tribunal, decided on 23 August 1984 that there was a substantial basis for the application made to that Committee for review of Administrative Tribunal Judgement No. 333;

Whereas the Committee had requested an advisory opinion of the International Court of Justice on the following questions:

"(1) In its Judgement No. 333 of 8 June 1984 (AT/DEC/ 333), did the United Nations Administrative Tribunal fail to exercise jurisdiction vested in it by not responding to the question whether a legal impediment existed to the further employment in the United Nations of the Applicant after the expiry of his contract on 26 December 1983?

(2) Did the United Nations Administrative Tribunal, in the same Judgement No. 333, err on questions of law relating to provisions of the Charter of the United Nations?"

(A/AC.86/R.121)

Whereas on 27 May 1987, the International Court of Justice gave an advisory opinion, the operative part of which reads as

follows:

"THE COURT,

A. Unanimously,

Decides to comply with the request for an advisory opinion;

B. Is of the opinion

(1) With regard to Question I,

Unanimously

That the United Nations Administrative Tribunal, in its Judgement No. 333 of 8 June 1984 (AT/DEC/333), did not fail to exercise jurisdiction vested in it by not responding to the question whether a legal impediment existed to the further employment in the United Nations of the Applicant after the expiry of his fixed-term contract on 26 December 1983;

(2) With regard to Question II,

By eleven votes to three,

That the United Nations Administrative Tribunal, in the same Judgement No. 333, did not err on any question of law relating to the provisions of the Charter of the United Nations.

IN FAVOUR: President Nagendra Singh; Vice-President Mbaye; Judges Lachs, Ruda, Elias, Oda, Ago, Sette-Camara, Bedjaoui, Ni and Tarassov;

AGAINST: Judges Schwebel, Sir Robert Jennings and Evensen."

(Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal, I.C.J. Reports 1987, p. 58.)

Whereas article 11, paragraph 3 of the Statute of the Tribunal provides in part:

"... In any case in which a request has been made for an advisory opinion, the Secretary-General shall either give effect to the opinion of the Court or request the Tribunal to convene specially in order that it shall confirm its original judgement, or give a new judgement, in conformity with the

opinion of the Court. If not requested to convene specially the Tribunal shall at its next session confirm its judgement or bring it into conformity with the opinion of the Court."

Whereas on 29 May 1987, the Legal Counsel of the United Nations informed the President of the Tribunal of the advisory opinion rendered by the International Court of Justice;

Whereas in view of the negative answers given by the Court to the two questions submitted to it for advisory opinion, and whereas no request has been received to convene specially, the Tribunal, under article 11, paragraph 3 of its Statute hereby confirms its Judgement No. 333 (Yakimetz against the Secretary-General of the United Nations) which accordingly becomes final on 30 October 1987.

(Signatures)

Samar SEN  
President

Endre USTOR  
Member

STATEMENT BY MR. ARNOLD KEAN

In accordance with article 11, paragraph 3 of the Tribunal's Statute I concur in the foregoing.  
(Signatures)

Arnold KEAN  
Vice-President

New York, 30 October 1987

R. Maria VICIEN-MILBURN  
Executive Secretary