CONSEIL DE L'EUROPE
COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF
ADMINISTRATIVE TRIBUNAL

Appeals Nos. 417-454/2008 (Pénélope DENU and others v. Secretary General)

The Administrative Tribunal, composed of:

Ms Elisabeth PALM, Chair,
Mr Hans G. KNITEL, Judge,
Mr José da CRUZ RODRIGUES, Substitute Judge,

assisted by:

Mr Sergio SANSOTTA, Registrar,

has delivered the following decision after due deliberation.

PROCEEDINGS

1. The Tribunal has thirty-eight appeals before it, submitted by:

- Ms Penelope DENU (II),	Appeal No. 417/2008 lodged and registered on 1 August 2008
- Mr Nicholas BROWN,	Appeal No. 418/2008 lodged and registered on 1 August 2008
- Mr Régis BRILLAT (II),	Appeal No. 419/2008 lodged and registered on 1 August 2008
- Mr Giovanni PALMIERI (VI),	Appeal No. 420/2008 lodged and registered on 1 August 2008
- Ms Mélina BABOCSAY (III),	Appeal No. 421/2008 lodged and registered on 1 August 2008
- Mr Mikaël POUTIERS,	Appeal No. 422/2008 lodged and registered on 1 August 2008
- Mr Jonathan Landon SHARPE (III),	Appeal No. 423/2008 lodged and registered on 1 August 2008
- Mr Halvor LERVIK (IV),	Appeal No. 424/2008 lodged and registered on 1 August 2008

- Ms Pascale BOUILLON,	Appeal No. 425/2008 lodged and registered on 1 August 2008
- Mr Marc BAECHEL (III),	Appeal No. 426/2008 lodged and registered on 1 August 2008
- Mr Jean-Philippe RESTOUEIX,	Appeal No. 427/2008 lodged and registered on 1 August 2008
- Ms Elisabeth HEURTEBISE,	Appeal No. 428/2008 lodged and registered on 1 August 2008
- Mr Gianfranco ALBERELLI (II),	Appeal No. 429/2008 lodged and registered on 1 August 2008
- Ms Kheira MOKKEDEM,	Appeal No. 430/2008 lodged and registered on 1 August 2008
-Ms Jeanne GRUBER-THIRION,	Appeal No. 431/2008 lodged and registered on 1 August 2008
- Ms Yolande ANTOINE,	Appeal No. 432/2008 lodged and registered on 1 August 2008
- Mr Didier FAUCHEZ,	Appeal No. 433/2008 lodged and registered on 1 August 2008
- Mr François KOLB,	Appeal No. 434/2008 lodged and registered on 1 August 2008
- Ms Martine SCHANDENE,	Appeal No. 435/2008 lodged and registered on 1 August 2008
- Ms Veronica JEANNIN (IV),	Appeal No. 436/2008 lodged and registered on 1 August 2008
- Ms Karla CHARRETON (II),	Appeal No. 437/2008 lodged and registered on 1 August 2008
- Mr John Bryan WILSON,	Appeal No. 438/2008 lodged and registered on 1 August 2008
- Ms Joanne HUNTING,	Appeal No. 439/2008 lodged and registered on 1 August 2008
- Ms Ilina TANEVA,	Appeal No. 440/2008 lodged and registered on 1 August 2008
- Ms Marose BALA LEUNG,	Appeal No. 441/2008 lodged and registered on 1 August 2008
- Mr Karl-Friederich BOPP,	Appeal No. 442/2008 lodged and registered on 1 August 2008
- Ms Françoise MALLET,	Appeal No. 443/2008 lodged and registered on 1 August 2008
- Ms Elisabeth SCARAVELLA,	Appeal No. 444/2008 lodged and registered on 1 August 2008
- Mr Wolfgang LARCHER,	Appeal No. 445/2008 lodged and registered on 1 August 2008
- Ms Florence MANSONS,	Appeal No. 446/2008 lodged and registered on 1 August 2008
- Ms Lucie MISSEMER,	Appeal No. 447/2008 lodged and registered on 1 August 2008

- Ms Ana GOREY (II),	Appeal No. 448/2008 lodged and registered on 1 August 2008
- Mr Günter NAGEL,	Appeal No. 449/2008 lodged and registered on 1 August 2008
- Ms Estelle STEINER,	Appeal No. 450/2008 lodged and registered on 1 August 2008
- Ms Olivia CONRAD,	Appeal No. 451/2008 lodged and registered on 1 August 2008
- Mr Jean-Pierre GEILER,	Appeal No. 452/2008 lodged and registered on 1 August 2008
- Mr Pierre MASSON,	Appeal No. 453/2008 lodged and registered on 1 August 2008
- Ms Annachiara CERRI,	Appeal No. 454/2008 lodged and registered on 1 August 2008

2. On 4 September 2008 Me J.-P. Cuny, counsel for the appellants, filed the further pleadings in these appeals.

3. On 24 October 2008 the Secretary General submitted his observations on the appeals.

4. On 27 November 2008 the appellants filed observations in response.

5. The Chair had authorised Mr Dimo Iliev, a former staff member of the Council of Europe Development Bank, to intervene in the proceedings (Article 10 of the Tribunal's Statute), and Mr Iliev submitted written observations on 6 February 2009.

6. The public hearing of these appeals was held in the Administrative Tribunal's hearing room in Strasbourg on 28 January 2009. The appellants were represented by Me J.-P. Cuny and the Secretary General was represented by Ms Bridget O'Loughlin, Deputy Head of the Legal Advice Department, assisted by Ms M. Junker-Schreckenberg and Ms S. Ivedi from the same department.

THE FACTS

7. The appellants are either former members of the Council of Europe's staff (Ms Babocsay, Mr Sharpe, Mr Kolb, Mr Wilson, Ms Mallet and Mr Nagel) or serving members (the other appellants).

8. They lodged their appeals to challenge the execution by the Council of the Tribunal's decisions of 12 July 2007 in Appeals Nos. 361-365/2006 and 368/2006 (*Babocsay and others v. Secretary General*) and 3 October 2007 in Appeals Nos. 370-378 and 381/2006 (*Charreton and others v. Secretary General*). The appellants were challenging the Secretary General's decision not to increase their pensions or salaries as of 1 January 2006 by the amount of the index (2%) arrived at by the current method of pay adjustments.

9. The relevant facts may be summarised as follows.

I. PROCEDURE FOR SETTING REMUNERATION, APPLICATION OF THE ADJUSTMENT PROCEDURE AT ISSUE AND DECISIONS OF THE TRIBUNAL

10. Council of Europe staff are entitled to remuneration in accordance with Article 41, paragraph 1 of the Staff Regulations and the Regulations governing Staff Salaries and Allowances (Appendix IV to the Staff Regulations).

11. Under the three-yearly review of Council of Europe staff salaries taking effect on 1 January 2003, the Committee of Ministers, at its 818th meeting (27 November 2002), approved the recommendations in the 139th report dated 15 July 2002 of the Co-ordinating Committee on Remuneration (CCR), together with the remuneration scales, with effect from 1 January 2003.

12. On this occasion a new adjustment procedure was established. It contained three major innovations concerning calculation of the reference index (used to determine the required salary adjustment). One of the innovations was that, to calculate the reference index, the CCR was to take into account "all other financial and non-financial changes to national civil service terms and conditions". This innovation was introduced in order to "capture more accurately the complete contents of the salary package" (139th report, paragraph 3.3.).

13. When the method was applied, the French authorities stated – provisionally – that working hours of French civil servants had fallen from 36.72 to 35 per week. The effect of this was a 0.94% increase in the reference index.

14. No data (financial or non-financial) on their remuneration were forthcoming for 2004 and 2005.

15. However, when the adjustment for 2006 was under discussion, it was necessary to consider a matter regarding the calculation method for non-financial remuneration in the German civil service.

At this point it emerged that the figures for the statutory reduction in working hours in the French civil service provided in 2003 should have shown that working hours had fallen from 39 hours to 35 hours a week.

The reference index had been underestimated and should have been 2.18% instead of 0.94%.

16. The final French figures were taken into the reckoning for 2006 and subsequent years.

However, with regard to correcting the figures for the preceding years (2003, 2004 and 2005), the CCR asked each Co-ordinated Organisation to "draw the consequences of the correction of this figure according to its specific situation" (paragraph 2.4 of the 168th report – Annual adjustment of remuneration of the staff of the Co-ordinated Organisations at 1 January 2006):

"2.4 In light of the provisional nature of the French figure, the CCR agreed that it should be re-examined. Recognising the need to be consistent, the Committee decided to follow the same statutory approach adopted in respect of the increase in the German working hours (see paragraph 2.2 above) and, consequently, that the reduction in the working hours in the French national civil service from 39 hours to 35 hours in compliance with the Decree publishing this change, was equivalent to an increase in the reference index at 1 January 2003 of +2.18% instead of +0.94% (i.e. a +1.2% differential). The CCR invites each Council to draw the consequences of the correction of this figure according to its specific situation, in the employment conditions of its staff."

However, that invitation does not feature in the "Recommendation" section of the report.

This reads:

"The Co-ordinating Committee on Remuneration recommends Councils:

a. to approve, subject to the provisions of Article 8 as adopted by five Organisations, the salary scales at 1 January 2006 mentioned in paragraph 2 above resulting from the application of the adjustment indices set out in Annex 2, column 3 (cf. attached tables by country in Annex 5);

b. to take note that the Secretaries/Directors General will consider, in the light of the situation faced by their individual Organisations, the increase in the working hours in the German civil service and the correction of the impact of the reduction in the working hours in the French civil service in 2002 which, when combined, give a +0.3% increase in the reference index (see Annex 2). They will take these into account in the conditions of service of their staff and will take appropriate measures in accordance with the normal procedures;

c. to approve and to implement, with effect at 1 January 2006, the amounts of allowances fixed in absolute value, adjusted in accordance with the procedure, set out in Annex 6 (Table II);

d. to note that, in pursuance of Article 36 of the 132nd Report by the CCR, pensions will be adjusted in the same proportions and at the same date as the salary of staff in relation to which they are calculated;

e. to note that, in accordance with the interpretation given to paragraph 3 of the 34th Report by the CCG [CCG(65)5] dated 25 October 1965, at its 77th Session on 29 June 1966 [cf. CCG/M(66)6], the salary of auxiliary staff serving in the Co-ordinated Organisations will be adjusted in the same proportions as that of permanent staff."

17. After staff members had raised the matter of the procedure for applying the adjustment to the years 2003-2006, the Tribunal delivered the previously mentioned decisions in *Babocsay and others* (which referred to 2003-2005) and *Charreton and others* (which referred to 2006). In the

former case, the Tribunal upheld the appellants' request but rejected it in the latter case. The Tribunal refers interested parties to those decisions for more detail.

II. ORIGINS OF THE CURRENT DISPUTE

18. On 16 January 2008 the Ministers' Deputies considered the matter in the light of document GR-AB(2007)19 of 22 November 2007, prepared for the Rapporteur Group on Administrative and Budgetary Questions (GR-AB), which was entitled "Follow-up to the decision of the Administrative Tribunal of the Council of Europe of 12 July 2007 in Appeals 361-365/2006 and 368/2006 (Babocsay et al vs. Secretary General) and to the decision of the Administrative Tribunal of 3 October 2007 in Appeals 370-378 and 381/2006 (Karla Charreton et al vs. Secretary General)". After considering the background to and decisions in *Babocsay and others* and *Charreton and others*, the document concluded with a section headed "Current situation and proposal". This reads as follows:

> "15. In line with the decision of the Administrative Tribunal, it now falls to the Ministers' Deputies to take a decision on what, if any, measures should be taken in the light of the adjustment, by the French authorities, of the calculation of the impact of the introduction of the 35 hour working week in France, which, it is recalled, amounts to 2.5 working days for each of the years 2003, 2004 and 2005 or the equivalent of 1.2% of salary for each of the three years.
>
> 16. It should be emphasised, first of all (see paragraph 8), that the CCR did not make any recommendation in its 168th report on compensation for the shortfall in the index for the years 2003, 2004 and 2005. This is further illustrated by the different ways in which the other Co-ordinated Organisations have dealt with the matter:
>
> - NATO has not granted its staff any compensation and the matter has never been formally discussed by the organisation's decision-making body;
>
> - the WEU has not granted any compensation;
>
> - the ESA has granted its staff compensation in the form of additional leave, i.e. 7.5 days' leave for staff active throughout the entire period;
>
> - the ECMWF has granted 7.5 days' leave to active staff and granted financial compensation to staff who were retired or had left at the time of the decision;
>
> - lastly, the OECD, which did not approve the 143rd report, has not granted any financial or other compensation to its staff.
>
> Only at NATO was an appeal lodged in this connection. It was dismissed on the procedural grounds of being filed too late.
>
> 17. Since the report of the CCR proposed that account be taken of this compensation in the conditions of service of the staff, in accordance with the normal procedures and in the

light of the situation of the Organisation, it is worthwhile setting out the various possibilities:

- grant all staff (active and retired) financial compensation, i.e. 1.2% of the wage bill, including pensions, for the years 2003, 2004 and 2005. It should be noted, first of all, that this option would not be consistent with the previous decisions. The impact of the 35-hour week in the French civil service was compensated, on the basis of the provisional figure, with 2 days' leave from 2003 (see paragraph 4) and, on the basis of the final figure for France combined with the increase in working hours in the German civil service, with an additional half-day's leave from 2006. The latter decision was challenged in an appeal to the Administrative Tribunal, which confirmed it was lawful to compensate in this manner (see paragraphs 13 and 14). As a guide, the cost of compensation of this kind would be of the order of €4.7 million, including the pensions budget;

- grant compensation in the form of additional leave, i.e. 7.5 days' additional leave for staff active full-time during the three years 2003, 2004 and 2005. Pro rata calculations of the time worked would be necessary for other staff. Retired and former staff would not receive any compensation. The estimated total days granted would be equivalent to approximately 75 full-time staff for a year;

- recall that the Committee of Ministers has already taken note of the CCR's 168th report and, in the light of the Administrative Tribunal's decision in cases N° 361-365/2006 and 368/2006 - Babocsay et al vs. Secretary General and given the circumstances of the Organisation, take a decision confirming the position taken previously by the Secretary General to take no action."

19. At their meeting the Ministers' Deputies took the following decision:

"Follow-up to the decision of the Administrative Tribunal of the Council of Europe of 12 July 2007 in Appeals 361-365/2006 and 368/2006 (Babocsay et al vs. Secretary General) and to the decision of the Administrative Tribunal of 3 October 2007 in Appeals 370-378 and 381/2006 (Karla Charreton et al vs. Secretary General)

(GR-AB(2007)19)

Decision

The Deputies, having considered the information contained in document GR-AB(2007)19 and having regard to the recommendations set out in paragraph 4 of the 168th report of the Co-ordinating Committee on Remuneration (CCR) (document CM(2005)190) concerning the adjustment of remuneration of the staff of the Co-ordinated Organisations, considered that they had fully implemented the CCR's recommendations contained in its 168th report. The Deputies therefore decided that no further action was required in respect of this report."

III. THE ADMINISTRATIVE COMPLAINTS

20. On 14 February 2008, after being apprised of this decision, twelve appellants (the authors of Appeals Nos. 417/2008 to 428/2008) requested the Secretary General under Article 59, paragraph 1 *in fine* of the Staff Regulations to disregard the decision of 16 January 2008 by the Ministers' Deputies and grant them the adjustment of +3.6% in respect of 2003, 2004 and 2005.

21. On 10 April 2008 the Director of Human Resources replied to the appellants as follows:

> "Thank you for your letter of 14 February asking the Secretary General to disregard the decision of 16 January 2008 by the Ministers' Deputies and grant you the adjustment of +3.6% in respect of 2003, 2004 and 2005.
>
> The Secretary General asks me to give you the following reply.
>
> Regarding execution of the Administrative Tribunal's decision in Appeals Nos. 361-365/2006 and 368/2006 (Babocsay and others) and in line with his undertaking to the Tribunal, the Secretary General has informed the Ministers' Deputies that the Tribunal has annulled his decision of 21 February 2006 not to refer the issue of a possible adjustment of compensatory amounts for years 2003-2005 to the Committee of Ministers for decision. At the same time he has also referred the matter of this possible adjustment to the Committee of Ministers. In so doing he has remedied the breach found by the Tribunal.
>
> The Ministers' Deputies, after examining the matter, concluded at their 1015th meeting on 16 January 2008 that they had fully implemented the recommendations of the CCR as contained in its 168th report. The Deputies thus agreed that no further action was required concerning this report.
>
> The Secretary General is bound by that decision under the terms of the Council of Europe's Staff Regulations and consequently cannot accede to your request."

22. On 7 May 2008 the appellants (those who had made the aforementioned request as well as those who had been apprised of the reply) lodged administrative complaints against the Secretary General's decision. The complaints, whether lodged by serving or retired staff, were worded almost identically (translation):

> "By this complaint I respectfully ask that you annul the administrative decision of 10 April 2008 in which you refused to grant me an adjustment of +3.6% in respect of 2003, 2004 and 2005;
>
> In particular, the reasons you give for your refusal do not stand up to criticism. The mere fact that the Committee of Ministers did not decide to grant that adjustment is in no way a guarantee that this position, and thus your refusal, are lawful. The general principles of law are the supreme standard in international civil service law and they take precedence over decisions of the Committee of Ministers, as the Administrative Tribunal has

emphasised on innumerable occasions.

One of the general principles of law is that of *legem patere quam ipse fecisti*. In the case in point, the Committee of Ministers laid down the pay adjustment method applicable to the years in question. After applying this method on the basis of provisional figures it refused, without giving any reason based on law, to apply the method in full once the figures became final.

Moreover, in basing yourself solely on the fact that the Committee of Ministers declined to grant the increase in question, you omit, as you have constantly done throughout, to offer any explanation as to the substance of this case.

Nowhere is there any indication of the reasons militating against this rectification of the scales, which merely represents the full and consistent application of the salary adjustment method freely decided by the Councils.

Your decision thus breaches the aforementioned general principle, goes against the hierarchy of sources, and fails to comply with the duty of substantiation, a duty enshrined in another general principle of law.

Lastly, this decision also breaches the adjustment method itself. And it is a method with considerable regulatory force.

For all these reasons, the decision must be annulled and I am confident that you will draw the consequences of this patently unlawful decision."

23. The Secretary General rejected all the administrative complaints on 5 June 2008. His decisions were worded as follows:

"You ask that the decision of 10 April 2008 rejecting your request for an adjustment in respect of years 2003 to 2005 be annulled.

You will recall that the standard working week in France was reduced by law to 35 hours in 2002. This in turn had an impact on working hours in the French civil service and thus on the reference index used by the Co-ordinating Committee on Remuneration (CCR) to determine the compensation packages for the staff members of the six Co-ordinated Organisations. As a result,

'In November 2002, when examining the remuneration adjustment at 1 January 2003, the CCR decided, following a statement by the French delegation, to accept on a provisional basis that the reduction in the working hours in the French civil service corresponded to a theoretical increase in remuneration of 4.91% (which corresponded to a real reduction in the working hours from 36.72 to 35 hours), with a +0.94% impact on the reference index. This provisional figure, which was provided in the 143rd CCR Chairman's Report on the remuneration adjustment at 1 January 2003 [CCR/R(2002)7], was never confirmed.'

Nevertheless, this provisional adjustment was taken into account in the conditions of service of Council of Europe staff members who were granted an additional two days annual leave as from 2003. The justification for granting additional leave rather than monetary compensation (but equivalent to the calculated increase of 0.94% noted above) was that the situation reflected a reduction in working time rather than an increase in salaries for the French civil servants.

In this regard, further to the conclusion of an *ad hoc* agreement between the Staff Committee and the Secretary General for the years 2003 and then 2004, Article 45 of the Staff Regulations was modified by Resolution of the Committee of Ministers of 3 November 2004 to make it possible for the Secretary General to modify staff members' annual leave entitlements. A new rule on leave (Rule 1205 of 1 January 2005) was also negotiated with the staff representatives, in the context of the negotiations on the reconciliation of private and professional life. Article 1 of this Rule – Leave with pay – provides that:

'*Permanent staff members of the Council of Europe shall be entitled to annual leave of two-and-a-half working days per month of service. They shall also benefit from two additional days' annual leave in non-pecuniary compensation for the reduction in working hours in the French civil service (as recommended by the 143rd Report of the Co-ordinating Committee on Remuneration - CCR), on a pro rata basis per completed month of service and part-time work. The number of days may vary depending on a possible variation of the non-pecuniary compensation proposed by the CCR and subject to the approval by the Committee of Ministers*.'

Subsequently, in 2005, the CCR was called upon to examine the impact of an increase in working time for German civil servants on the compensation package which would be recommended for the staff members of the Co-ordinated Organisations. The CCR concluded that the combined impact of the German increase in working time, together with the reduction in France (which had been adjusted by the French authorities in the meantime), represented a net impact of +0.3% in the compensation to be awarded to staff members. This net +0.3% was compensated for Council of Europe staff members through an additional half-day holiday at the beginning of the Christmas break.

At the same time (2005), the adjustment by the French authorities was taken into account in the CCR's 168th report. In the light of the initially provisional nature of the French figure in 2002 the CCR agreed that this figure should be re-examined and, specifically:
'*Recognising the need to be consistent, the Committee decided to follow the same statutory approach adopted in respect of the increase in the German working hours… and, consequently, that the reduction in the working hours in the French national civil service from 39 hours to 35 hours in compliance with the Decree publishing this change, was equivalent to an increase in the reference index at 1 January 2003 of +2.18% instead of +0.94% (i.e. a +1.2% differential).*'

The CCR went on to invite '*each Council to draw the consequences of the correction of this figure according to its specific situation, in the employment conditions of its staff*.'

Notwithstanding this invitation in the body of the CCR's report (which was distributed to the Ministers' Deputies as document CM(2005)190 on 19 December 2005), the CCR did not include it in the form of a recommendation. Indeed the recommendations attached to the 168th report of the CCR did not contain any reference to this question. Given that the question of how to deal with the correction of the French civil service figures in respect of the years 2003, 2004 and 2005 was not included in the CCR's recommendations; the Secretary General did not explicitly invite the Ministers' Deputies to address this question

As the CCR did, however, recommend to Councils to take note of the "*increase in the working hours in the German civil service and the correction of the impact of the reduction in the working hours in the French civil service in 2002 which, when combined, give a +0.3% increase in the reference index"* that question was submitted to the Ministers' Deputies for a decision, and the Committee of Ministers then authorised the Secretary General to grant half an additional day of annual paid leave (see above) as of 2006.

As already pointed out above, the question of how to deal with the correction of the French civil service figures retroactively in respect of the years 2003, 2004 and 2005 was included in the body of the 168th report, but it was not included in the CCR's recommendations. In view of this, the Secretary General considered that he did not need to ask the Deputies to deal with this question and decided that, in the circumstances prevailing at the end of 2005, no action should be taken as regards the years 2003, 2004 and 2005.

The Administrative Tribunal, addressing this issue, stated in its decision in Appeals Nos. 361-365/2006 and 368/2006 that, in budgetary matters '*it is for the Committee of Ministers to decide (Article 16 of the Statute of the Council of Europe). The Secretary General is responsible for organisational functioning and must put administrative and budgetary matters to the Committee of Ministers for decision*.'

Consequently the Tribunal annulled the Secretary General's decision of 21 February 2006 which said '*.. The examination of the retroactive effect of the correction of the non-monetary elements for the years 2003 to 2005 was not retained by the CCR in the recommendation. As a result, I am advised that 1 am not obliged to propose retroactive compensation under the form of extra leave days or monetary compensation. Whatever may be my personal feelings, the Organisation simply cannot afford it in our present financial circumstances...'*

In execution of the aforementioned decision the Secretary General thus referred to the Committee of Ministers the question of retroactively adjusting the salaries and pensions of Council of Europe staff to reflect the combined effects of the changes in hours worked in the reference national civil service in 2003-2005.

The Committee of Ministers, in considering the question, took account of the issue in its entirety and of the possible options: 1) to grant all staff financial compensation; 2) to grant compensation in the form of additional days of leave, and 3) to take no action. At its 1015th meeting, on 16 January 2008, the following decision was taken: '*The Deputies,*

having considered the information contained in document GR-AB(2007)19 and having regard to the recommendations set out in paragraph 4 of the 168th report of the Co-ordinating Committee on Remuneration (CCR) (document CM(2005)190) concerning the adjustment of remuneration of the staff of the Co-ordinated Organisations, considered that they had fully implemented the CCR's recommendations contained in its 168th report. The Deputies therefore decided that no further action was required in respect of this report.'

The Committee specifically took into account the fact that the CCR made no recommendation in its 168th report about compensation for the difference in the index for years 2003, 2004 and 2005. And this is evident from the different ways in which the other Co-ordinated Organisations have dealt with the matter:

- NATO has not granted its staff any compensation and the matter has never been formally discussed by the organisation's decision-making body; the WEU has not granted any compensation;

- the ESA has granted its staff compensation in the form of additional leave, i.e. 7.5 days' leave for staff active throughout the entire period;

- the ECMWF has granted 7.5 days' leave to active staff and granted financial compensation to staff who were retired or had left at the time of the decision;

- lastly, the OECD, which did not approve the 143rd report, has not granted any financial or other compensation to its staff.

Clearly the Committee of Ministers has an obligation to act on formal recommendations of the CCR but not on any invitations that may feature in its reports. It may decide to follow them (if the Organisation's circumstances allow), but it is not obliged to. For this reason the Committee of Ministers decided, in the event, that in view of the specific circumstances of the Council of Europe it could not make the effects of correcting the figure in question retroactive.

It may therefore be seen that the question of adjusting the salaries and pensions of Council of Europe staff retroactively was, as the Tribunal had recommended, referred to the Committee of Ministers, which took a decision on it, as it is required to do in budgetary matters. In deciding to take no other action, the Committee of Ministers acted entirely lawfully and in accordance with its remit and the consequent obligations.

In conclusion, your administrative complaint must be deemed ill-founded and must be rejected. Under Article 60 of the Staff Regulations you may challenge this decision before the Administrative Tribunal in writing and within 60 days of the date of its notification."

24. The Secretary General also addressed the matter of the admissibility of the administrative complaints lodged by appellants who had not made a request under Article 59, paragraph 1 *in fine*, concluding that these were inadmissible.

25. The appellants lodged their appeals against rejection of their administrative complaints with the Tribunal, within the 60-day time limit prescribed in Article 60 of the Staff Regulations, on the dates shown in paragraph 1 above.

THE LAW

26. The appellants ask the Tribunal to annul the Secretary General's decision of 5 June 2008 in which he refused to entertain any retroactive adjustment to salaries, pensions and allowances for the years 2003-2005.

The Secretary General, for his part, asks the Tribunal to declare the appeals ill-founded and to dismiss them. As a preliminary, he also asks that twenty-six appeals be declared inadmissible (the appeals by serving and former staff members who did not make a prior request under Article 59, paragraph 1 *in fine* of the Staff Regulations). He argues that these appeals are inadmissible because the authors have no interest in bringing proceedings and are not victims.

I. JOINDER OF THE APPEALS

27. As the thirty-eight appeals are closely interconnected the Administrative Tribunal orders their joinder under Rule 14 of its Rules of Procedure.

II. SUBMISSIONS OF THE PARTIES

A) Admissibility of twenty-six appeals

1. The Secretary General

28. The Secretary General contends that a decision rejecting the requests made by a number of staff members cannot be deemed an administrative act in which these twenty-six appellants have a direct and existing interest.

He argues that these appellants do not have an interest in acting against the aforementioned decision in place of their colleagues who do have an interest since they alone challenged it in a formal request. If the twenty-six appellants wanted to obtain a salary adjustment, it was up to them to seek it, within the statutory time limit. The Secretary General adds that all staff members were informed of the decision of 16 January 2008. They had the option of making a request in respect of this decision (within 60 days) or lodging an administrative complaint against it (within 30 days). It is this decision of 16 January 2008 which might be prejudicial to staff members, not the refusal of a request made by a number of staff members. Since the twenty-six appellants did not take action early enough, their administrative complaints and consequently their appeals are out of time. These appellants lodged their administrative complaints on 7 April 2008, more than 30 days after the decision which they claim is prejudicial to them.

The Secretary General points to international case-law as providing ample proof that the time limit for appeal is an essential limit, which is necessary to ensure the stability of legal situations and cannot be challenged even on grounds of fairness or other circumstances of the kind invoked by the appellant. This is all the more true where, on expiry of a time limit, important decisions have been taken which, if challenged, would cause certain damage to other persons.

In his view it also follows from Article 59 of the Staff Regulations that it is the responsibility of the colleagues of these twenty-six appellants to lodge an administrative complaint against a decision they deem prejudicial to them. Case-law is consistent here: it is for the person directly concerned by an act of which he or she claims to be the victim to take action against it.

2. The appellants

29. The twenty-six appellants stress that they were informed of the communication of 10 April 2008 and were thus able to see that the Secretary General had taken a decision *erga omnes*, that is to say a decision applicable not only to the recipients of the communication of 10 April 2008 but to all members of the Organisation's staff. For that simple reason these appellants do have a "direct and existing" interest as required by Article 59, paragraph 1 of the Staff Regulations. Their own salaries and pensions are at issue here, not just those of the persons to whom the communication of 10 April 2008 was addressed. The act in question is prejudicial because it deprives them of a financial benefit.

These appellants state that the aforementioned Article 59 defines an "administrative act" as "any individual or general decision or measure taken by the Secretary General." The impugned act here is certainly a general measure taken by the Secretary General. The fact that it was communicated to a limited number of staff members in no way alters its scope, which is general.

In view of the above considerations these appellants ask the Tribunal to reject the Secretary General's plea of inadmissibility.

B) The merits of the thirty-eight appeals

1**. The appellants**

30. The thirty-eight appellants advance three grounds of appeal: contravention of the adjustment method in force, breach of the obligation to substantiate decisions and breach of the general legal principles of *legem patere quam ipse fecisti*, the rule of law, legitimate expectation and good faith.

31. Concerning the first ground, the appellants base themselves on the Tribunal's case-law (ATCE, formerly ABCE, Appeals Nos. 133-145/1986, *Ausems and others*, decision of 3 August 1987) in arguing that the pay adjustment method has regulatory force, indeed considerable regulatory force, since the Committee of Ministers must abide by its terms for the whole of the

period which it has set. Other regulations can be amended at any time by an act having the same legal force.

32. The appellants further claim that, in this case, the Secretary General, having waited for the decision in *Charreton and others* before responding to the decision in the appeal by *Babocsay and others*, is arguing the merits of a decision which grants no financial compensation – in contravention of the method in force.

The appellants add that "one wonders why the Secretary General waited for the Tribunal's ruling in the Charreton case before laying proposals before the Committee of Ministers. In substance, he did not take account of the Tribunal's conclusions, namely that there was an obligation to give an adjustment to staff members and pensioners."

33. The reason given by the Secretary General for his rejection is based solely on semantics. The CCR had merely "invited each Council to draw the consequences of the correction of the French figures" (paragraph 2.4 of the 178th report). The fact that that invitation did not form the subject of a recommendation as such led the Secretary General to believe two things: he was under no obligation to refer the matter to the Committee of Ministers, and the Committee of Ministers had no obligation to act on "*any invitations that may feature in* [the CCR's] *reports*".

The first of these two assumptions was categorically refuted by the Tribunal in its decision in the aforementioned Babocsay appeal. The Secretary General's second assumption (succinctly expressed in the decision rejecting the administrative complaint) gives rise to major uncertainties and many questions.

The Secretary General's argument appears based on a supposition which is false and erroneous in that it totally ignores the content of the adjustment method and the fact that adjustment is mandatory. Adjustment of the scales to take account of the corrected French figures is an imperative dictated by the principle that the method must be adhered to. Neither the Secretary General nor the Committee of Ministers respected that obligation and as a result they breached the rights of all staff members.

34. Concerning the second ground that decisions must be substantiated, the appellants claim that the Committee of Ministers' decision of 16 January 2008 ignored the obligation to provide reasons. The Committee, they say, simply states that it has implemented the recommendations of the CCR as contained in its l68th report, but says nothing about the question put to it regarding correction of the figures incorrectly used to calculate the adjustments for 2003-2005. Thus, the Committee of Ministers gives no reason for its failure to pronounce on the "invitation" given to the Co-ordinated Organisations. This being so, they argue, it is not a matter of insufficient substantiation being given – none was given at all.

In the appellants' view it follows that the Committee of Ministers' decision breaches the general principle that administrative acts must be substantiated. This defect has repercussions on the acts implementing this decision. Thus it also affects the decision of the Secretary General which is impugned in this appeal. The appellants refer here to the decision in the case of Fuchs and others.

35. Concerning the third ground, the appellants believe that a number of general principles were breached.

Firstly, they argue that all authorities are required to abide by the decisions which they themselves take and be bound by the rules they have set and the obligations they have entered into. This general principle of law is known in Latin as *legem patere quam ipse fecisti*. In the present case, in adopting the CCR's 139th report, the Committee of Ministers decided that it would adjust staff remuneration (and pensions) according to an objective, mathematical method, while reserving the possibility – limited substantively and procedurally – of derogating from implementing the method, wholly or in part (see Article 8 of the aforementioned report). It is important to emphasise that this possibility has never been mentioned in the context of the present dispute.

The appellants consider the Committee of Ministers to be in breach of the method which it itself laid down, namely the terms of the 139th report. The adjustments for the 2003-2005 period were made on the basis of provisional figures whose effect was to produce an index lower than the one the method provided for, and by thus derogating from strict and rigorous application of the method the Committee of Ministers disregarded the formal and substantive requirements of the aforementioned Article 8.

The appellants further argue that the Committee of Ministers and the Secretary General are undermining legal certainty and thus respect for the principle of the rule of law as laid down in Article 3 of the Council of Europe's Statute. No one would question the fact that the general principles on which the Organisation's work is founded, together with the legal instruments created with a view to achieving the objective set in Article 1 (b) of the Council of Europe's Statute, are essential elements of the Organisation's internal legal system. One reaches that conclusion by applying to the present case, *mutatis mutandis*, considerations expounded by the Tribunal (formerly the Appeals Board) in its decision of 10 April 1973 (Appeal No. 8/1972, *Artzet*). Paragraph 24 (2) of the decision, in particular, expressly mentions the principle of the rule of law as laid down in Article 3 of the Council's Statute.

In the appellants' view, infringement of the general principle of *legem patere quam ipse fecisti* and the rule of law is compounded by a breach of the principles of legitimate expectation and good faith. In its decision on Ausems and others, referred to earlier, the Tribunal said (paragraph 79) that these principles recognise "*the fact that the staff of international institutions and their representative(s) must be entitled to rely on respect by the administrative authorities of the undertaking entered into by such authorities*" (cf. CJEC, case 81-72, Commission of the European Communities v. Council of the European Communities, 5 June 1973, Court reports 1973, p. 575). In paragraph 80 of the Ausems decision, the Tribunal said that in adopting an adjustment method "*the Committee of Ministers raised legitimate expectations on the part of the staff of the Council of Europe concerning the scope of its undertakings regarding the method and the criteria on which the calculation of salaries ought to be based*." The appellants consider this passage highly pertinent.

The appellants add that their legitimate expectations have been ignored in this case. The Secretary General is not only refusing to acknowledge the mandatory nature of the method; he is using against them an argument (that he is required to act on recommendations by the CCR but not on what he calls "invitations") which has no basis at all in logic, law or history. To the appellants it is clear that the Secretary General is using this argument solely in an attempt to have their case dismissed. In so doing he is breaching the general principle of law which requires international organisations to act in good faith in the performance of their responsibilities and specifically in their management of staff.

2. The Secretary General

36. After tracing the background to the issue up to the decision in *Babocsay and others*, the Secretary General states that in execution of the aforementioned decision he referred to the Committee of Ministers the question of retroactively adjusting the salaries and pensions of Council of Europe staff to reflect the combined effects of the changes in hours worked in the reference national civil service in 2003-2005.

The Secretary General adds that the Committee of Ministers, in considering the question, took account of the issue in its entirety and of the possible options: 1) to grant all staff financial compensation; 2) to grant compensation in the form of additional days of leave, and 3) to take no action.

At its 1015th meeting, on 16 January 2008, the Committee of Ministers took its decision, namely that no further action was required. The competent body thus answered the question concerning the possible correction of the compensation granted and took a decision, even if it is not to the appellants' liking.

37. The Secretary General adds that the Committee of Ministers clearly has an obligation to act on formal recommendations of the CCR but not on any invitations that may feature in its reports. It may decide to follow them (if the Organisation's circumstances allow) but it is not obliged to. For this reason the Committee of Ministers decided, in the event, that in view of the specific circumstances of the Council of Europe it could not retroactively draw the consequences of the correction of the figure in question. That correction was made necessary by an error which is not the fault of the Committee of Ministers or of the Council of Europe.

38. It may therefore be seen that the question of adjusting the salaries and pensions of Council of Europe staff retroactively was, as the Tribunal had recommended, referred to the Committee of Ministers, which took a decision on it, as it is required to do in budgetary matters. In deciding to take no further action, the Committee of Ministers acted entirely lawfully and in accordance with its remit and the consequent obligations.

39. Concerning the alleged breach of the obligation to substantiate his decisions, the Secretary General points out here that the Committee of Ministers, in its decision of 16 January 2008, expressly refers to the information contained in document GR-AB(2007)19 and to the recommendations set out in paragraph 4 of the 168th report of the Co-ordinating Committee on

Remuneration (CCR) (document CM(2005)190). By referring to that information and those recommendations the Committee endorsed them and thus gave ample explanation of its decision to follow them.

40. Concerning the alleged breaches of the various general principles of law referred to by the appellants, the Secretary General contends that there was nothing in the earlier decisions to suggest that they might expect a regularisation of the position, and consequently the absence of any retroactive measure is not a betrayal of any prior expectation that staff members may have had.

In the light of the above it is apparent that there was no breach of the Staff Regulations, other rules, or of the practice or general principles of law. The relevant facts were not assessed incorrectly, no erroneous conclusions were drawn from the documents in the appellant's file, and there was no abuse of power.

III. THE ARGUMENTS OF THE THIRD PARTY

41. The third party outlines a whole series of arguments in support of the three grounds advanced by the appellants on the merits of the appeals and asks the Tribunal to annul the impugned decisions.

He points out that on remuneration matters his former employer, the Council of Europe Development Bank, applies the decisions taken by the Committee of Ministers of the Council of Europe to its staff.

He argues that the twenty-six appeals are admissible and says that there was a breach of the pay adjustment method. Moreover, the Committee of Ministers' decision and the Secretary General's implementation of it were not substantiated. Lastly, there was a breach of the general principles of law.

Noting that the Tribunal has full jurisdiction in this case, the third party asks the Tribunal to extend its decision to all the staff members concerned by this dispute, including serving and retired staff of the Bank.

IV. THE TRIBUNAL'S ASSESSMENT

A. *Admissibility of the twenty-six appeals*

42. The Tribunal notes that Article 59, paragraph 1 of the Staff Regulations reads as follows:

> "1. Staff members who have a direct and existing interest in so doing may submit to the Secretary General a complaint against an administrative act adversely affecting them. The expression 'administrative act' shall mean any individual or general decision or measure taken by the Secretary General."

43. It is clear to the Tribunal that in adopting his decision of 10 April 2008 the Secretary General, to whom a series of individual requests had been submitted, took a general measure. As stated by the Director of Human Resources:

> "The Secretary General is bound by that decision [of the Committee of Ministers] under the terms of the Council of Europe's Staff Regulations and consequently cannot accede to your request."

The Tribunal finds it difficult to see how the Secretary General could subsequently have taken individual decisions in respect of the twenty-six appellants which were different from the general measure adopted on 10 April 2008 – and indeed, he does not claim to have done so. The statement that the Secretary General was "bound" by the Committee of Ministers' decision is confirmation of the fact that this decision of 10 April had implications for all staff members.

The Tribunal thus concludes that the twenty-six appellants did have a direct interest in lodging their complaints.

It remains to be decided whether, as the Secretary General argues, the administrative complaints were lodged too late, assuming that the act prejudicial to these appellants was the decision by the Ministers. In the Tribunal's view, the substance of that act was not administrative but regulatory. That being so, the consistent case-law of the Tribunal indicates that the twenty-six appellants could not have challenged it by means of an administrative complaint. It follows that the complaints were lodged within the statutory time limit applicable here, namely thirty days from the date on which the appellants learned of it (Article 59, paragraph 2 b) of the Staff Regulations).

44. Having reached this conclusion, the Tribunal must dismiss the plea of inadmissibility in respect of the twenty-six appeals and consider their merits at the same time as the other twelve appeals.

B. *The merits of the thirty-eight appeals*

45. The Tribunal notes that the appeals relate to a matter deriving from the execution of its *Babocsay and others* decision of 12 July 2007.

46. Before considering the grounds advanced by the appellants the Tribunal has a duty first to look at the background to the case.

47. Two series of appeals were laid before the Tribunal regarding the pay adjustment method applied for years 2003-2005 and 2006 respectively. The Tribunal declared the first series of appeals well founded on grounds of a procedural defect (decision in *Babocsay and others*) and dismissed the second series because it found them to be ill-founded (decision in *Charreton and others*).

48. Before considering the present appeals, the Tribunal thinks it useful to recall the relevant sections of its decision in the *Charreton* case (paragraphs 49-61):

"49. The appellants submit two grounds of appeal in challenging the legality of the disputed decision. They allege that it contravened the current adjustment method and the general legal principles of *legem patere quam ipse fecisti*, the rule of law, legitimate expectation and good faith.

50. The Tribunal notes right away that the 139th report (see paragraph 12 above) introduced a new method of calculating the reference index by taking into account financial and non-financial changes to employment conditions in national civil services. However, the report says nothing about the method (financial or non-financial) of paying the adjustment.

51. The Committee of Ministers adopted the 139th report on 27 November 2002.

52**.** The Tribunal observes that the new calculation method described in the 139th report was applied by the CCR in its 143rd report on 2003 salaries. The CCR noted: 'The new method of calculating the reference index states that non-financial benefits are also taken into account.' On the ground that the exceptional non-financial change in employment conditions had an appreciable impact on the reference index, the CCR recommendations left it to the different Co-ordinated Organisations to decide how the effect of the reduction in working hours would be taken into account in their staffs' employment conditions and to take the appropriate measures in accordance with the usual procedures.

53. The practice of making financial adjustments to compensate for non-financial changes first came into the reckoning for setting the 2003 adjustments. In the latter connection the Council of Europe Committee of Ministers approved the CCR recommendations and adopted a decision which moved in the relevant direction (Resolution (2003) 1 of 5 March 2003).

54. Lastly the Tribunal notes that in 2004 a joint negotiation group composed of representatives of the Secretary General and staff representatives reached agreement that, as from 2004, all staff would have two days' leave per year added to their annual leave entitlement as non-financial compensation for the reduction in working hours in the French civil service. That agreement gave rise to a regulatory change which was introduced by Rule No. 1205 on leave, dated 1 January 2005.

55. In the Tribunal's view the fact that the Staff Committee agreed on a previous occasion to the award of non-financial compensation has no bearing on the legitimacy of a decision concerning 2006 since the agreement in question related solely to the 2003 adjustment.

In any case, however, the Staff Committee's agreement was not necessary in that, under the regulations, the Staff Committee must be consulted but its agreement is not required.

56. The Tribunal holds that the agreement previously expressed by the CCR and the recommendation which it made cannot provide a legal basis as the 168th report was silent

on the matter. The Tribunal further notes that a distinction was drawn between the 1.7% increase and the 0.3% in that, in the latter case, it was left to the Organisations to take their own decisions.

57. However, the Tribunal is unpersuaded by the appellants' contention that the Secretary General illegally altered the adjustment method. In the Tribunal's opinion the method laid down in the 139th CCR report is concerned solely with determining how the annual adjustments are calculated. It says nothing about the method (financial or non-financial) of paying a salary increase.

58. It is clear from the 168th report that the CCR applied the new method in calculating the scales for 2006. It follows that, by adopting the CCR's recommendation, the Committee of Ministers did not deviate from the method in force.

Even though the Tribunal regards as an exceptional measure the decision to grant additional days' leave as salary compensation, the decision to adopt that approach was not illegal.

59. The Tribunal considers it worth pointing out that such non-financial adjustments also have a cost for the Organisation in that they alter the work/pay ratio.

60. Lastly, the Tribunal has taken cognisance of the decision of 25 May 2007 of the NATO Appeals Board (paragraph 25 above) annulling the decision disputed before it. However, the Appeals Board found a legal flaw in the disputed decision, and the Council of Europe situation differs from the NATO one.

61. Having reached that conclusion concerning the first ground of appeal, the Tribunal holds that there has not been any disregard of the principles invoked in the second ground of appeal."

49. The Tribunal points out first of all that the administrative act laid before it for consideration is the reply given by the Secretary General on 10 April 2008. In that reply, communicated by the Director of Human Resources, the Secretary General had been at pains to point out that he was bound by the decision of the Committee of Ministers under the statutory rules of the Organisation and consequently could not accede to the requests laid before him.

Articles 13 and 16 of the Council of Europe's Statute provide as follows:

Article 13

"The Committee of Ministers is the organ which acts on behalf of the Council of Europe in accordance with Articles 15 and 16."

Article 16

"The Committee of Ministers shall, subject to the provisions of Articles 24, 28, 30, 32, 33

> and 35 relating to the powers of the Consultative Assembly, decide with binding effect all matters relating to the internal organisation and arrangements of the Council of Europe. For this purpose the Committee of Ministers shall adopt such financial and administrative arrangements as may be necessary."

50. However, the Tribunal does not need to consider the question of whether the Committee of Ministers' decision referred to by the Secretary General can be directly challenged since, in the decision in *Ausems and others* mentioned earlier, the Tribunal (formerly the Appeals Board), ruling on appeals against the Secretary General's administrative act implementing the Committee of Ministers' decision complained of by the appellants, had indirectly challenged the said decision of the time by the Committee of Ministers which had given rise to the impugned act. Paragraph 88 of the *Ausems* decision said that

> "It follows that by including the 'inhouding' in the calculation of the figures supplied by the Netherlands Government as representing the 'net remuneration in the national civil services taken as reference' (Article 5 of Annex II to the above-mentioned 159th Report), the Committee of Ministers has disregarded the principle of good faith with regard to retired staff of the Council of Europe."

Lastly, in the operative part of its decision the Tribunal ruled as follows:

> "Annuls the individual decisions whereby the Secretary General applied to retired staff the decision of the Committee of Ministers taking into account the 'inhouding' in the fixing of salaries of Council of Europe staff."

51. In the light of this, and of the grounds of appeal laid before it, the Tribunal must ask itself three questions.

52. Firstly, did the Committee of Ministers have an obligation to decide on a retroactive pay adjustment?

53. The Tribunal is forced to conclude that it did not. Regardless of the terms of the pay adjustment method in force at the time and its implementing arrangements, and on the basis of the Tribunal's case-law on adherence to the established methods of pay adjustment, the fact remains that the CCR made no recommendation as to what should be done once the error had been discovered. The CCR merely invited "each Council to draw the consequences of the correction of this figure according to its specific situation, in the employment conditions of its staff." Thus the CCR left this matter aside from the implementation of the method it had established.

As a result, the CCR at no time proposed that sums of money be paid to the staff of the various Organisations in this connection. One might, admittedly, wonder about the lawfulness and/or appropriateness of such an attitude on the part of the CCR – which was for the first time faced with a unique situation brought about by an error beyond its control. However, the Tribunal has no competence to pronounce on the CCR's decisions as such – or, as in this case, the lack of them.

Thus it cannot be concluded that the implementation of the method laid an obligation on the Organisation to rectify the error identified. As a result the Tribunal cannot agree with the appellants' assertion that there was a breach of the pay adjustment method.

54. Secondly, did the Committee of Ministers fail to discharge its obligation to substantiate its decision?

55. Here too the Tribunal finds that it did not, because the Committee of Ministers, in its decision, made explicit reference to the document examined by the GR-AB. And when this document is considered together with the Committee of Ministers' decision and the subsequent decision of the Secretary General, the economic and financial reasons which led the Committee of Ministers not to carry out a pay adjustment become clear.

56. Lastly, did the Committee of Ministers breach the general principles of law to which the appellants refer?

57. Concerning the principle of good faith, the Tribunal takes the view that the conduct of the Committee of Ministers in reaching the decision now being considered by the Tribunal was not such as to cast doubt on its good faith. It is clearly apparent from examining the documents laid before the Tribunal that the Committee of Ministers was guided in its decision by economic and financial considerations that were clearly set out and quantified in paragraph 17 of the GR-AB document with regard to the cost implications for the Organisation of making a retroactive pay adjustment for three years on the basis of a single decision. It is clear that under the terms of the Council of Europe's Statute and in the absence of any CCR recommendation to the contrary, the Committee of Ministers could take the impugned decision without any doubts being cast on its good faith.

Moreover, having concluded that there was no breach of the method, the Tribunal holds that there cannot either be a breach of the other principles on which the appellants rely, namely *legem patere quam ipse fecisti*, the rule of law and legitimate expectation.

Consequently there was no breach either of the general principles of law and this ground of appeal too must be disregarded.

58. In conclusion, the appeals are ill-founded and must be dismissed.

For these reasons, the Administrative Tribunal:

Orders the joinder of the thirty-eight appeals;

Dismisses the plea of inadmissibility raised in Appeals Nos. 429/2008 to 454/2008;

Declares Appeals Nos. 417/2008 to 454/2008 ill-founded;

Dismisses them;

Orders each party to bear its own costs.

Adopted by the Tribunal in Strasbourg on 16 June 2009, and delivered in writing pursuant to Article 35, paragraph 1 of the Tribunal's Rules of Procedure on 24 June 2009, the French text being authentic.

The Registrar of the Administrative Tribunal	The Chair of the Administrative Tribunal
S. SANSOTTA	E. PALM