

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

L. (No. 2)

v.

Eurocontrol

(Application for review)

124th Session

Judgment No. 3816

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3571 filed by Mr Q. L. on 26 April 2016;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. In his first complaint, the complainant requested inter alia the conversion of his limited-term appointment into an appointment for an undetermined period. In Judgment 3571, delivered in public on 3 February 2016, the Tribunal considered that the duties entrusted to the complainant could not be regarded as lasting in nature, that his appointment for a limited term was not a breach of the principle of non-discrimination, and that there was no evidence to substantiate the submission that the general duty of care and good faith had been breached. The Tribunal concluded that the complainant was not entitled to an appointment for an undetermined period.

2. The complainant seeks the review of the judgment insofar as it concerns the dismissal of his request for conversion of his limited-term appointment. It has been consistently stated in the case law that in conformity with Article VI of its Statute the Tribunal's judgments are final and without appeal and have *res judicata* authority. They may be reviewed only in exceptional circumstances and on strictly limited grounds. The only admissible grounds for review are failure to take account of material facts, a material error, i.e. a mistaken finding of fact which, unlike a mistake in the appraisal of the facts, involves no exercise of judgement, an omission to rule on a claim, or the discovery of new facts which the complainant was unable to rely on in the original proceedings. Moreover, such pleas must be likely to have a bearing on the outcome of the case. Conversely, pleas of a mistake of law, failure to admit evidence, misinterpretation of the facts or omission to rule on a plea afford no grounds for review (see, for example, Judgments 3001, under 2, 3452, under 2, 3473, under 3, 3634, under 4, and 3718, under 4).

3. As the basis for his application for review, the complainant contends that the Tribunal omitted to rule on the "subsidiary argument" supporting his request for conversion of his limited-term appointment. In so doing, he alleges that the Tribunal omitted to rule on a plea. However, as noted above, that is not an admissible ground for review in any event. The application for review must therefore be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,
The application for review is dismissed.

In witness of this judgment, adopted on 1 May 2017, Mr Claude Rouiller, President of the Tribunal, Mr Patrick Frydman, Judge, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 28 June 2017.

(Signed)

CLAUDE ROUILLER PATRICK FRYDMAN FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ