

118th Session

Judgment No. 3385

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 2924 filed by Mr O. V. on 27 July 2010;

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

Having examined the written submissions;

CONSIDERATIONS

1. The applicant applies for review of Judgment 2924. It is well settled that the Tribunal's judgments may only be reviewed in exceptional circumstances and on the grounds of "failure to take account of particular facts, a mistaken finding of fact that involves no exercise of judgment, omission to rule on a claim and the discovery of some new facts which the complainant was unable to invoke in time in the [earlier] proceedings" (see Judgment 1952, under 3). As well, "[t]he ground on which review is sought must be one that would have led to a different result in the earlier proceedings" (see Judgment 3000, under 2).

2. He submits that the decision was based on two manifest misstatements of the facts. The first is a statement at consideration 4 that “there is no indication of any close link with any country other than the Netherlands”. In this review, he claims that:

“There cannot be any doubt that the Applicant had (and still has) close links to Greece. He grew up and went to school there, and his family still lives there. The Applicant’s mother is Greek, he holds Greek nationality, and the place of his ‘home leave’ for the purpose of Art 60 of the Service Regulation is Greece.”

This argument is directed at the Tribunal’s assessment of the evidence and is beyond the scope of review.

3. The second statement, also at consideration 4, states, “the evidence indicates that the complainant was living in the Netherlands as part of a family unit”. While the specific finding that the complainant was living in the Netherlands as part of a family unit appears erroneous, it was not a material error as it would not have led to a different result given the Tribunal’s finding that there was “no indication of any close link with any country other than the Netherlands, or, indeed, of any intention to take up residence in any other country”. It is, therefore, not subject to review.

4. In the circumstances, the application for review will be dismissed in accordance with the summary procedure provided for in Article 7 of the Tribunal’s Rules.

DECISION

For the above reasons,

The application for review is summarily dismissed.

In witness of this judgment, adopted on 15 May 2014, Ms Dolores M. Hansen, Judge presiding the meeting, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 9 July 2014.

DOLORES M. HANSEN
MICHAEL F. MOORE
HUGH A. RAWLINS
DRAŽEN PETROVIĆ