

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**A. (No. 6)**

**v.**

**UNIDO**

(Application for review)

**120th Session**

**Judgment No. 3547**

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3329 filed by Mr Y. E. A. on 24 June 2014;

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 complainant, who is represented by counsel, requests the review of Judgment 3329, delivered on 28 April 2014, in which the Tribunal satisfied his claims in part by setting aside the impugned decision and awarding him 25,000 euros for all damages incurred as well as costs in the amount of 2,000 euros.

2. In accordance with the Tribunal's case law, pursuant to Article VI of its Statute, its judgments are "final and without appeal" and carry the authority of *res judicata*. They may therefore 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 involving no exercise of judgement, an omission to rule on a claim, or the discovery of new facts on which the complainant was unable to rely in the original proceedings. Moreover, these pleas must be likely to have a bearing on the outcome of the case. Pleas of mistake of law, failure to admit evidence, misinterpretation of the facts or omission to rule on a plea, on the other hand, afford no grounds for review (see Judgment 3305, under 3, and the case law cited therein).

3. In the instant case, referring to that case law, the complainant submits that the Tribunal made a “mistaken finding of fact” by concluding that he had refused to be transferred to Bangkok. He quotes several submissions from his previous complaints and contends that the Tribunal disregarded them. He asks the Tribunal to re-examine them.

The complainant further considers that the Tribunal “failed to appreciate realities” in respect of the Director-General’s alleged wish to “get rid” of him.

The purpose of these arguments is clearly to call into question the interpretation of the facts by the Tribunal which, having examined the file, concluded that “[t]he complainant could not [...], without valid grounds, refuse his reassignment to Bangkok”. The application must therefore be dismissed on this point.

4. The complainant considers that the sums awarded by the Tribunal in damages and costs “hardly reflect the real market situation”. In addition, he invokes an alleged misinterpretation of one of the statements made in his written submissions and contends that the Tribunal should have ordered his reinstatement in the Organization. He asserts more generally that the Tribunal did not properly substantiate its decision.

These pleas will not be accepted either, as they imply a mistake of law and a material error involving an exercise of judgement.

5. The complainant's claims seeking clarification from the Tribunal as to a right of appeal against its judgments before a "competent court" clearly demonstrate a misconception of the Tribunal's jurisdiction as established by its Statute and interpreted by its case law. They must be dismissed.

6. It follows from the foregoing that the application for review must 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 29 April 2015, Mr Giuseppe Barbaglio, President of the Tribunal, Mr Claude Rouiller, Vice-President, and Mr Seydou Ba, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 30 June 2015.

*(Signed)*

GIUSEPPE BARBAGALLO

CLAUDE ROUILLER

SEYDOU BA

DRAŽEN PETROVIĆ