

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

G.

v.

PAHO

(Application for interpretation)

139th Session

Judgment No. 4913

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for interpretation of Judgment 4540 filed by Ms A. D. C. G. on 17 April 2023, the reply of the Pan American Health Organization (PAHO) of 5 July 2023, the complainant's rejoinder of 24 August 2023, PAHO's surrejoinder of 27 November 2023 and the document submitted by the complainant on 14 December 2023, correcting an annex to her rejoinder;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the Statute of the Tribunal;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant in the proceedings leading to Judgment 4540, delivered in public on 6 July 2022, has applied for the interpretation of that judgment. It is convenient to retain in this judgment, the description complainant rather than applicant.

2. The orders made in Judgment 4540 were:

- “1. The impugned decision of 22 June 2020 is set aside, as is the decision of 15 November 2018.
2. PAHO shall pay the complainant 45,000 United States dollars in material damages.
3. PAHO shall pay the complainant 5,000 United States dollars in costs.
4. All other claims are dismissed.”

3. The principles governing an application for interpretation have recently been set out in Judgment 4732, consideration 3:

“According to the Tribunal’s case law, and as recalled in Judgment 4567, consideration 3, an application for interpretation is receivable only if the meaning of the judgment concerned is uncertain or ambiguous to such an extent that the judgment cannot be executed (see, for example, Judgments 4409, consideration 6, 3984, consideration 10, 3822, consideration 5, and 3014, consideration 3). Moreover, ordinarily such an application can concern only the decision in a judgment, and not the grounds thereof. It is, however, accepted that it may additionally concern the grounds if the decision refers to them explicitly so that they are indirectly incorporated in the decision (see aforementioned Judgments 4409, consideration 6, 3984, consideration 10, and 3822, consideration 5, and also Judgments 3564, consideration 1, 3271, consideration 4, and 2483, consideration 3). The Tribunal notes that these requirements are actually set out at the beginning of the form used to file an application for interpretation.”

4. In her application for interpretation, the complainant develops two lines of argument. The first raises the question of what was the Tribunal’s rationale for assessing the material damages in the sum of 45,000 United States dollars. The second line of argument concerns the administrative consequences of setting aside the decision of 15 November 2018 dismissing the complainant and setting aside the impugned decision of 22 June 2020 dismissing the appeal from the first mentioned decision. Neither line of argument raises the question of what the orders actually made, meant.

5. These pleas entail an impermissible extension of the principles which apply to an application for interpretation. Ordinarily it is the words, and only the words, of the orders in the decision that are the

subject of interpretation if they are uncertain or ambiguous. Neither the first order nor the second order is ambiguous or uncertain.

6. It is unnecessary to determine, in these proceedings, whether either or both of the lines of argument referred to above could have been raised in an application for execution or for review of Judgment 4540, or whether, as PAHO contends, the complainant ought to have filed an internal appeal against the decision taken following the delivery of the judgment, to treat her as having completed her appointment in accordance with Staff Rule 1040. The complainant elected to bring an application for interpretation which is misconceived. It should be dismissed.

DECISION

For the above reasons,

The application for interpretation is dismissed.

In witness of this judgment, adopted on 31 October 2024, Mr Michael F. Moore, Vice-President of the Tribunal, Ms Rosanna De Nictolis, Judge, and Ms Hongyu Shen, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 6 February 2025 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE

ROSANNA DE NICTOLIS

HONGYU SHEN

MIRKA DREGER