

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**K.**

**v.**

**UNESCO**

(Application for review)

**140th Session**

**Judgment No. 5059**

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 4878 filed by Mr L. K. on 3 October 2024;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the Statute of the Tribunal and Articles 6, paragraph 5, and 7 of its Rules;

Having examined the written submissions;

#### CONSIDERATIONS

1. The complainant, a former staff member of the United Nations Educational, Scientific and Cultural Organization (UNESCO), has filed an application for review of Judgment 4878, delivered in public on 8 July 2024, by which the Tribunal dismissed his first complaint, challenging the implicit refusal to grant him a bonus for working on Sunday.

2. According to the Tribunal's case law, its judgments are, pursuant to Article VI of its Statute, "final and without appeal" and have *res judicata* authority. They may therefore be reviewed only in exceptional circumstances and on strictly limited grounds. Under Article 6, paragraph 5, of the Tribunal's Rules, the only admissible grounds for review are failure to take account of material facts, a

material error (namely a mistaken finding of fact involving no exercise of judgement), failure 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 a 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, for example, Judgments 4327, consideration 3, 3473, consideration 3, 3452, consideration 2, or 3001, consideration 2).

3. In support of his application, the complainant asserts that the Tribunal failed to take account of material facts and committed a material error by ignoring certain documents which he had provided in connection with his first complaint and which, in his view, proved that he had been subjected to a difference in treatment in comparison with other members of the Organization's staff who received bonuses for working on Sunday.

4. As regards the alleged failure to take account of material facts, the complainant argues that the Tribunal referred to only one of the documents he had produced in support of his submissions and, in his view, thereby failed to take account of the other documents he submitted into evidence. However, the fact that only one of the documents supplied by the complainant was mentioned in the judgment under review does not mean that the other documents he produced were not taken into consideration. In assessing the merits of the plea alleging a difference in treatment, the Tribunal took account of all the documents in the file relating to this issue, even if it saw fit to refer to only one of them in the Judgment. The plea alleging a failure to take account of material facts must therefore be dismissed.

5. In respect of the alleged material error, the pleas raised cannot be construed as relating to such an error but solely, in reality, as an attempt to challenge the Tribunal's assessment of the facts in Judgment 4878, in particular as regards the probative value of the documents referred to above. However, this assessment cannot be

effectively challenged in an application for review (see Judgments 4736, consideration 6, 4440, consideration 5, or 3983, consideration 6).

6. It follows from the foregoing that the complainant's application for review is clearly unfounded and must therefore be summarily dismissed in accordance with the procedure set out 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 30 May 2025, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, René M. Vargas M., Registrar.

Delivered on 3 July 2025 by video recording posted on the Tribunal's Internet page.

*(Signed)*

PATRICK FRYDMAN    JACQUES JAUMOTTE    CLEMENT GASCON

RENÉ M. VARGAS M.