

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

H. (No. 3)

v.

ITU

(Application for review)

140th Session

Judgment No. 5094

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 4831 filed by Mr K. H. on 4 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 of the complainant;

CONSIDERATIONS

1. In Judgment 4831, delivered on 8 July 2024, the Tribunal dismissed as unfounded the complainant's third complaint against the International Telecommunication Union (ITU), which concerned the rejection of his claim for compensation for a service-incurred illness. The Tribunal rejected the complainant's arguments that this illness had been triggered by the notification, on 14 October 2019, of his suspension pending an investigation into misconduct against him initiated by the organization, and the conditions under which this decision had been implemented. The complainant seeks a review of that judgment, alleging that the Tribunal failed to take account of material facts, committed material errors of fact or law and omitted to rule on a claim. Furthermore, he relies on the discovery of new facts which, according to him, could alter the outcome of his case.

2. Pursuant to Article VI of its Statute, the Tribunal’s judgments are “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 Rules of the Tribunal, the only admissible grounds of review are a failure to take account of material facts, a material error (namely a mistaken finding of fact 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 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, Judgment 4906, consideration 4, and the case law cited therein).

3. The complainant contends that, in Judgment 4831, the Tribunal failed to properly consider the long-term health consequences of ITU’s actions and did not give adequate weight to the provided medical certificates, which clearly demonstrate a causal link between his suspension and his ongoing illness. The Tribunal’s “assertion” in consideration 12 of Judgment 4831 that he should have initiated an investigation into the impact of the events of 14 October 2019 on his health is, in his view, both unreasonable and legally untenable as it was impossible for him to do so given his severe medical condition. Moreover, he considers that the Tribunal erred in its factual findings by concluding that the suspension was carried out appropriately and without undue harm to him. He further argues that the Tribunal failed to properly address the impact of public humiliation stemming from his “eviction”. Lastly, he raises issues of conflict of interest regarding a former ITU senior legal officer, Ms V.C., who had taken action on ITU’s behalf in matters concerning his cases and who was seconded to the Tribunal when Judgment 4831 was under consideration, and regarding the Tribunal’s former Registrar, Mr P., who conducted training sessions for ITU staff members.

4. The complainant's submissions do not support a conclusion that Judgment 4831 should be reviewed.

5. Firstly, it is plain from his arguments that the complainant is in fact seeking to submit that the Tribunal incorrectly appraised the facts in question. Such submission does not afford an admissible ground for review (see Judgments 4906, consideration 7, 4440, consideration 5, and 3983, consideration 6).

6. Secondly, his arguments do not relate to material errors but are solely an attempt to challenge the view taken by the Tribunal in Judgment 4831 and to reopen issues already settled in the original judgment. The legal assessments made by the Tribunal in a judgment cannot be challenged in an application for review (see Judgments 4906, consideration 6, 4440, consideration 4, and 3984, consideration 5). Moreover, insofar as the complainant is essentially revisiting arguments advanced unsuccessfully in his third complaint and expressing disagreement with the Tribunal's appraisal of the evidence and interpretation of the law, the matters raised are *res judicata* and the complainant puts forward no legitimate ground to reopen the findings made in Judgment 4831 (see Judgments 4933, consideration 8, 4440, consideration 7, and 3479, consideration 6). The new medical certificates submitted by the complainant in support of his application, which point to a causal link between his medical condition and the events of 14 October 2019, do not constitute new evidence justifying a review of Judgment 4831, since they essentially confirm a medical opinion that was already expressed in medical certificates produced during the original proceedings.

7. Thirdly and lastly, concerning the alleged conflict of interest on which the complainant relies, the Tribunal notes that the complainant has already raised these issues with the President of the Tribunal. Indeed, the complainant has appended to his application for review the email of 9 September 2024 by which the Registrar, writing on behalf of the President, confirmed to the complainant that Ms V.C. was not involved in any way in the handling by the Tribunal of the complaint

leading to Judgment 4831, nor of any of the other complaints he filed. In this regard, the complainant's reliance on a draft investigation report prepared by the Internal Oversight Division of the World Intellectual Property Organization is irrelevant, since it does not concern actions performed by Ms V.C. as a legal officer serving in the Registry of the Tribunal. As for the alleged conflict of interest on the part of the former Registrar, Mr P., apart from the fact that the latter's role as Registrar does not include adjudicating complaints, his involvement in an information session at ITU concerning internal appeal bodies plainly falls short of establishing even a potential conflict of interest.

8. It follows from the foregoing that the complainant's application for review is clearly devoid of merit and will 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 26 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.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

RENÉ M. VARGAS M.