

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

T.

v.

Interpol

(Application for review)

141st Session

Judgment No. 5143

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 4670 filed by Ms V. T. on 27 July 2023, the reply of the International Criminal Police Organization (Interpol) of 20 November 2023, the complainant's rejoinder of 18 December 2023 and Interpol's surrejoinder of 25 March 2024;

Considering the application to intervene filed by Ms L. H. on 20 December 2023 and Interpol's comments thereon of 25 March 2024;

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

Having examined the written submissions;

CONSIDERATIONS

1. In the case leading to Judgment 4670, the complainant sought the restitution of amounts wrongly deducted by Interpol from her salary in respect of sickness insurance contributions.

In Judgment 4670, the Tribunal set aside the final decision of the Secretary General, ordered Interpol to pay the complainant compensation in an amount equivalent to half of the sums deducted from her salary for the 2009-2012 period, together with interest for late payment on the

sums paid to her by way of refunds for the period after 1 January 2013, and ordered the Organization to pay costs.

2. For the purposes of this application for review, suffice it to recall that Interpol had decided to affiliate its officials stationed in France to the French social security system pursuant to Staff Regulation 7.1(1), thus making French national law applicable to the employment relationship between the Organization and the officials concerned as regards their social protection. From January 1999, French law provided that persons affiliated to the social security scheme who were exempt in France from all or part of direct income tax had to pay an “enhanced sickness insurance contribution” (ESC). The Organization therefore deducted the contribution, set at the rate of 5.5 per cent from the salaries of the officials concerned, on behalf of the *Union de recouvrement des cotisations de sécurité sociale et d’allocations familiales* (URSSAF) of the Rhône-Alpes region, which later became URSSAF of the Auvergne-Rhône-Alpes region (hereinafter “URSSAF”), a non-market, private body with a public service remit that forms part of the “collection” arm of the general social security scheme.

In a decision of 13 December 2012, the French Constitutional Council declared the provision providing for payment of the ESC to be contrary to the Constitution. The subject-matter of the complaint leading to Judgment 4670 was the reimbursement of the amounts deducted by Interpol from the complainant’s salary pursuant to the legislation that had thus been declared contrary to the Constitution.

Once URSSAF had made the corresponding reimbursements, Interpol refunded to the complainant the sums wrongly levied from her salary in respect of the ESC for the period after 1 January 2013. The Tribunal found the complaint to be moot insofar as it related to the amounts wrongly deducted during that period, apart from the question of the interest sought by the complainant for late payment of the sums refunded to her. In this regard, the Tribunal applied the principle found in its case law according to which interest is due *ipso jure* whenever a principal amount is payable, which is in particular the case where

amounts have been wrongly deducted from remuneration that was due to be paid on a fixed date. In this scenario, the starting point for the interest to be paid is the due date for each payment from which an amount was wrongly deducted, that due date being equivalent by itself to service of notice (see, in particular, Judgments 3180, consideration 12, 2782, consideration 6, and 2076, consideration 10). It therefore ordered Interpol to pay the complainant interest for late payment.

However, as regards the amounts of ESC that the complainant believed she had wrongly paid between 1 January 2009 and 31 December 2012, the Tribunal considered that, since reimbursement of the disputed contributions for the 2009-2012 period did not appear clearly impossible in the light of the decision of the French Constitutional Council of 13 December 2012 and the provisions of the French Social Security Code, Interpol ought, at the very least, to have expressly requested URSSAF or the French public authorities to effect that reimbursement, which it had failed to do, in breach of its duties and obligations as an international organisation towards its officials. The Tribunal therefore concluded that Interpol had been negligent in several respects and considered that the complainant had been denied a valuable opportunity to receive a refund of the amounts of ESC deducted from her salary for that period. It therefore ordered the Organization to pay the complainant compensation for loss of opportunity in an amount equivalent to half of the sums deducted from her salary for that period but did not add any interest to that compensation.

Lastly, the Tribunal dismissed the complainant's claim for compensation for the moral injury she considered she had suffered and awarded her 7,000 euros in costs.

3. As the Tribunal has underlined on numerous occasions (see, in particular, Judgments 5059, consideration 2, 4956, consideration 2, 4906, consideration 4, and 4440, consideration 2), its judgments are "final and without appeal" pursuant to Article VI of its Statute and have *res judicata* authority. They may 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

therefor are a failure to take account of material facts, a material error (in other words, 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 also Judgments 4327, consideration 3, 3473, consideration 3, 3452, consideration 2, or 3001, consideration 2).

4. In her application for review, the complainant submits that the Tribunal, firstly, failed to rule on the claims in her complaint concerning the deductions made before 2009 and, secondly, failed to take account of a fact said to be “material”, namely non-compliance by Interpol with the Headquarters Agreement concluded with France.

5. As regards the alleged failure to rule on some of the claims in the complaint relating to the period from 1 March 2007 to 31 December 2008, it is apparent from the summary of facts in Judgment 4670 that the Tribunal was well aware that the period of service to be taken into account ran from 1 March 2007 to 7 May 2019.

However, it was clear from the arguments in the complaint leading to that judgment that the complainant restricted the scope of her arguments to the period from 1 January 2009 onwards only. In the absence of any arguments specifically relating to the period prior to that date, the Tribunal could not, by definition, rule on such arguments.

Furthermore, the reason why it was not possible to consider the period before 1 January 2009 was also made clear in considerations 10 and 11, where the Tribunal stated as follows:

“10. As Interpol has decided to affiliate its officials stationed in France to the French social security scheme pursuant to Staff Regulation 7.1(1), it has made French national law applicable to the employment relationship between the Organization and the officials concerned as regards their social protection. Given this express reference to the rules of national law, the Tribunal should, in principle, refer to them when ruling on this dispute

(see Judgments 4401, consideration 6, 3915, consideration 4, 1451, consideration 23, and 1369, consideration 15).

The Tribunal notes that, in aforementioned Decision No. 2012-659 of 13 December 2012, the French Constitutional Council ruled that the second sentence of the second paragraph of Article L. 131-9 of the French Social Security Code, the provision requiring the ESC to be collected, did not comply with the French Constitution.

The Tribunal also notes that paragraph I of Article L. 243-6 of the same Code, to which the complainant refers to establish that the Organization was negligent, provides as follows:

‘I. - Claims for the reimbursement of wrongly paid social security and family allowance contributions are time-barred when three years has passed from the date on which the said contributions were paid.

Where the obligation to reimburse the said contributions arises from a court decision that establishes that the legal rule applied does not comply with a higher legal rule, a claim for reimbursement may only relate to the period after 1 January of the third year preceding the year in which the decision establishing non-compliance was adopted. [...]’

11. Having regard to these matters, the Tribunal finds that the question of the extent to which the amounts of ESC paid for the 2009-2012 period may be refunded to the persons who paid them raises a question of interpretation of national law, the scope of which goes well beyond the case of Interpol officials and which can only be decided by the French authorities and courts. It is therefore not for the Tribunal to rule on this issue.”

It follows from the second subparagraph of paragraph I of Article L. 243-6 of the French Social Security Code, reproduced in full above, that it was not, in any event, possible to go back any earlier than 1 January 2009 because of the three-year limitation period laid down by that article.

As the Organization rightly notes in its written submissions, in finding, on the basis of the French Constitutional Council’s decision of 13 December 2012 and the provisions of French law cited in Judgment 4670, that the limitation on claims for the period 2009 to 2012 – in other words, the three years preceding the decision of the French Constitutional Council – was legally uncertain, the Tribunal clearly considered that any claims relating to earlier periods – that is, those prior to 2009 – were time-barred under the relevant provisions of French law and that the restitution of the amounts wrongly deducted before 2009 was therefore no longer possible.

Lastly, contrary to what the complainant asserts, the claims in her complaint concerning the period from 1 March 2007 to 31 December 2008 were expressly rejected in the decision in the judgment as the Tribunal stated in point 6 thereof: “[a]ll other claims are dismissed”.

The first ground put forward in support of the application for review is therefore unfounded.

6. As regards the alleged failure to take account of the “material” fact that Interpol did not comply with the Headquarters Agreement concluded with France, the Tribunal notes first of all that formulating the ground for review in this manner can in reality be regarded as alleging an omission to rule on a plea. As recalled in consideration 3 above, an omission of that kind does not constitute an admissible ground for review.

What is more, it is clear from reading consideration 8 of Judgment 4670 that the Tribunal had taken note of the complainant’s argument that the Headquarters Agreement had not been complied with, and also of her argument that the dispute had not been referred to the arbitration tribunal mentioned in that agreement.

Moreover, it is obvious simply from reading the provisions of the agreement referred to by the complainant that they were of no relevance to the present case, since Article 18.1, on which she relies, concerns income tax, which does not form part of the social security contributions that directly give rise to the right to receive social security benefits.

The exemption from income tax provided for in the Headquarters Agreement in respect of salaries and emoluments paid to officials and the alleged failure on the part of the Organization to comply with it – which, according to the complainant, was what led to the disputed additional deductions for sickness insurance – cannot, in any event, constitute in this case a material fact which was not taken into account by the Tribunal in Judgment 4670. What is more, in view of the foregoing, this plea was clearly not likely to have a bearing on the outcome of the case.

The second ground put forward in support of the application for review is therefore also unfounded.

7. It follows from the foregoing that the complainant's application for review must be dismissed in its entirety. The same applies to the application to intervene.

DECISION

For the above reasons,

The application for review is dismissed, as is the application to intervene.

In witness of this judgment, adopted on 31 October 2025, Mr Patrick Frydman, Vice-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 10 February 2026 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLEMENT GASCON

RENÉ M. VARGAS M.