

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

R. (No. 3)

v.

EPO

(Application for review)

142nd Session

Judgment No. 5319

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 5089 filed by Mr E. H. R. on 27 September 2025;

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 5089, delivered on 3 July 2025, the complainant, together with others, challenged the abolition of automatic step advancement pursuant to the introduction of the new career system for the employees of the European Patent Office, the secretariat of the EPO. As indicated in that judgment, his complaint was part of the extensive litigation submitted to the Tribunal concerning the new career system introduced by the Administrative Council's decision CA/D 10/14 of 11 December 2014, which came into force on 1 January 2015. It should be recalled that the new system significantly altered the structure of employees' grades by introducing new "career paths" and providing that progression was based on sustained performance and demonstrated competencies rather than time spent within a step or grade.

In Judgment 5089, consideration 7, the Tribunal noted that the complainant had indicated that his case was similar to that filed by the complainant in Judgment 4711, which had resulted in a “test-appeal” and a joint opinion by the Appeals Committee. The Tribunal found, in Judgment 5089, that the complainant’s complaint was “essentially identical” to the complaints leading to Judgment 4711 or 4990, and that there was no reason why it should reach a different conclusion in these proceedings than in those judgments. The Tribunal dismissed the complainant’s complaint as clearly devoid of merit.

2. The complainant seeks a review of Judgment 5089.

3. The Tribunal recalls that, pursuant to Article VI of its Statute, its 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, Judgments 4906, consideration 4, 4327, consideration 3, 3473, consideration 3, 3452, consideration 2, and 3001, consideration 2).

4. The complainant alleges that the Tribunal made a material error and failed to take into account material facts insofar as it considered that he had indicated that his case was similar to that filed by the complainant in Judgment 4711.

The Tribunal observes that, contrary to the complainant’s assertion, he acknowledged this similarity in his original complaint, rejected by Judgment 5089. Indeed, when he transmitted his original complaint, he stated, in his cover letter of 3 May 2021, that “in light of

the similarity of the cases which resulted in a ‘test-appeal procedure’” and a joint opinion by the Appeals Committee, the general annexes included in the complaint filed by the lead complainant and resulting in Judgment 4711 were also relevant to his complaint. In the brief regarding his original complaint, he mentioned that his situation was peculiar in some respect, but reiterated the statement he had made in the letter of 3 May 2021 that his complaint followed “an internal mass appeal procedure, which resulted in a ‘test-appeal’ procedure” and a joint opinion of the Appeals Committee. In any event, the Tribunal did not err in considering that his original complaint was similar to that rejected in Judgment 4711. The plea should be rejected.

5. The complainant also submits that the Tribunal failed to take into account a material difference, namely that he was in an “intermediary situation” as he would have been eligible for automatic step advancement in the first half of 2015 under the previous career system. He also contends that the EPO failed to take “transitional mitigating measures” to address the situation of staff in such “intermediary situation”.

In Judgment 5089, the Tribunal obviously considered that the complainant’s situation in this regard had no bearing on the outcome of the case. In making such finding, the Tribunal made a legal assessment which cannot be challenged in an application for review (see Judgments 4906, consideration 6, 4736, consideration 7, 4440, consideration 4, and 3984, consideration 5).

Moreover, the Tribunal stresses that, in Judgment 4711, it specifically addressed the issue of transitional measures. It stated, in consideration 10, that “[t]he transitional measures included in the reform of the career system f[e]ll within the discretion of the Organisation, d[id] not appear unreasonable and [could not] therefore be annulled by the Tribunal. In any case, it is not within the Tribunal’s purview to impose different transitional measures.” This legal assessment cannot be challenged either in an application for review.

6. The complainant also alleges that the Tribunal omitted to rule on various claims for relief, namely the “subsidiary” claims that were to be considered in the event the Tribunal came to the conclusion that the introduction of the new career system was lawful. According to the complainant, these “subsidiary” claims were listed under points viii) to xvi) of the complaint form in his original complaint. However, the Tribunal observes that, in his original complaint, he indicated that the claims listed under points viii) to xii) were “alternative” to his main claims listed under points i) to vii), whereas those made under points xiii) to xvi) were claims for material and moral damages, and costs. His “alternative” claims aimed at being granted a “pro rata step increase proportional to [his] 22 months seniority as of 31 December 2014”, at having his entitlements modified accordingly and at being reimbursed any underpayment in that respect.

The Tribunal recalls that, in Judgment 5089, it decided that the new career system was lawful, which implied that the complainant was not entitled to a step advancement based on the previous career system. Therefore, the complainant’s claims under points viii) to xii), which the Tribunal correctly interpreted as aiming to be granted a step advancement based on the previous career system and to benefit from the consequences deriving from that step increase, were necessarily rejected by the Tribunal. Moreover, the rejection of his main claims listed under points i) to vii) obviously implied that the claims for damages and costs listed under points xiii) to xvi), which were based on the alleged unlawfulness of the challenged decision, were also rejected. Therefore, the Tribunal did not omit to rule on any claims.

7. It follows from the foregoing that the complainant’s application for review is clearly devoid of merit and 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 26 May 2026, 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 16 July 2026 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

RENÉ M. VARGAS M.