

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

S.

v.

EPO

(Application for review)

142nd Session

Judgment No. 5320

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 5089 filed by Mr M. S. on 30 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.

2. The complainant requests that the panel appointed to rule on his application for review should be composed of judges who did not participate in the adoption of the judgment under review. However, the Tribunal recalls that the fact that one or more of its members sat on the panel that delivered a judgment cannot, of itself, be considered to disqualify them from ruling on an application for review of that judgment (see, for example, Judgment 4888, consideration 2). The request is rejected.

3. 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.

4. The complainant seeks a review of Judgment 5089.

5. 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).

6. The complainant alleges that the Tribunal failed to take into account a material fact, namely that the reform had a discriminatory effect on staff who were on part-time parental leave like him. According to him, the Tribunal erred, for this reason, in finding that his complaint was essentially identical to that leading to Judgment 4711 or 4990, and that there was no reason why it should reach a different conclusion to that reached in those judgments.

In Judgment 5089, the Tribunal obviously considered that the complainant being part-time on parental leave 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, for example, Judgments 4906, consideration 6, 4736, consideration 7, 4440, consideration 4, and 3984, consideration 5).

7. The complainant also contends that the Tribunal omitted to rule on one of his claims, namely that “if [the new career system] [was] deemed to be used for the period in question”, the EPO should “recalculat[e] as defined [...] his salary and pension in light of the promotion and steps he should have been entitled to under [the new career system] if there had been no discrimination because of his part-time working”.

The Tribunal recalls that, in Judgment 5089, it dismissed the complaint in its entirety as clearly devoid of merit. Thus, the Tribunal rejected all of the complainant’s claims, including, implicitly but necessarily, the one made in relation to the recalculation of his salary and pension based on the advancement he should have been entitled to under the new career system. The plea is therefore unfounded.

8. 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.

9. As the application for review fails, the complainant is not entitled to costs.

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.