

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**B. (No. 4)**

**v.**

**EPO**

(Application for review)

**123rd Session**

**Judgment No. 3720**

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3510 filed by Mr J. B. on 21 June 2016 and corrected on 7 September 2016;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

**CONSIDERATIONS**

1. The complainant seeks the review of Judgment 3510, delivered in public on 30 June 2015, by which the Tribunal dismissed his claim for compensation for the moral and material injury which he alleged he had suffered owing to the excessive length (19 months) of the procedure for obtaining a visa for his wife's adopted daughter.

2. The Tribunal's judgments carry the authority of *res judicata* and may be reviewed only in exceptional circumstances and on strictly limited grounds. The only admissible grounds therefor are failure to take account of material facts, a material error, in other words a mistaken finding of fact involving no exercise of judgement which thus differs from misinterpretation of the facts, an omission to rule on a claim, or

the discovery of new facts which the complainant was unable to rely on in the original proceedings. Moreover, these pleas must be likely to have a bearing on the outcome of the case. On the other hand, pleas of a mistake of law, failure to admit evidence, misinterpretation of the facts or omission to rule on a plea afford no grounds for review (see, for example, Judgments 3001, under 2, 3452, under 2, 3473, under 3, and 3634, under 4).

3. In support of his application for review, the complainant submits that the Tribunal committed mistakes of law and of fact, first by “present[ing] as legitimate” a procedure which is contrary to the regulations on adoption and, secondly, by “pass[ing] over a number of significant facts” which would have enabled it to reach a different decision in his case.

In support of his first plea, he produces a document drawn up by the Ministry of Justice of the Netherlands, dated 29 January 2016, allegedly confirming that “under an international adoption procedure, it [was] impossible to adopt a child who ha[d] already been adopted under national proceedings abroad”. He contends that, in its summary of the facts, the Tribunal took the view that it was “legitimate” to ask his wife to file an application for the international adoption of the child whom she had already adopted in accordance with Thai procedure and that this fundamental error led it to consider that the EPO had supplied the complainant with correct information throughout the nineteen-month holdup in issuing the visa.

4. As stated under 2, above, the plea of a mistake of law is not an admissible ground for review. Moreover, the Tribunal did not express an opinion on the lawfulness of the procedure required by the Ministry of Foreign Affairs of the Netherlands. Consideration 4 of Judgment 3510 merely records what action the Ministry had asked the complainant’s wife to take.

The complainant also asks the Tribunal to review the lawfulness of the procedure followed by the authorities of the Netherlands, but this is plainly not within its competence.

5. The complainant's plea that the Tribunal "passed over a number of significant facts" is tantamount to disagreeing with the Tribunal's assessment of the evidence in the file. It is therefore irreceivable in an application for review.

6. Since the pleas entered by the complainant clearly do not justify a review of Judgment 3510, this application 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 10 November 2016, Mr Claude Rouiller, President of the Tribunal, Mr Patrick Frydman, Judge, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 8 February 2017.

*(Signed)*

CLAUDE ROUILLER      PATRICK FRYDMAN      FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ