

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

K.

v.

ITU

(Application for interpretation)

134th Session

Judgment No. 4567

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for interpretation of Judgment 4370
filed by Mr E. K. on 22 September 2021;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the
Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant is a former staff member of the International
Telecommunication Union (ITU). He has filed an application with the
Tribunal for interpretation of Judgment 4370, delivered in public on
18 February 2021, in which the Tribunal dismissed his complaint of
31 January 2018 against ITU's decision to retire him as from 31 July 2017.

2. In support of his application, the complainant submits that, in the
grounds of Judgment 4370, the Tribunal used three ambiguous expressions
and one vague expression and that these grounds "contain[ed] multiple
grey areas which obscure[d] the clarity" of the judgment.

3. According to the Tribunal’s case law, an application for interpretation is receivable only if the meaning of the judgment concerned is uncertain or ambiguous to such an extent that the judgment cannot be executed (see, for example, Judgments 3014, consideration 3, 3822, consideration 5, 3984, consideration 10, and 4409, consideration 6). Moreover, such an application can ordinarily concern only the decision contained in a judgment, and not the grounds thereof. Indeed, it can concern the grounds of the judgment as well only if the decision refers to them explicitly so that they are indirectly incorporated in the decision (see Judgments 2483, consideration 3, 3271, consideration 4, 3564, consideration 1, and also aforementioned Judgments 3822, consideration 5, 3984, consideration 10, and 4409, consideration 6). The Tribunal notes that these requirements are actually set out at the beginning of the form used to file an application for interpretation.

4. The complainant’s criticisms relate principally to the grounds of Judgment 4370 whereas the decision in that judgment – stating that “[t]he complaint is dismissed” – makes no reference to them. His criticisms are therefore irrelevant under the case law recalled above.

5. However, the complainant believes that the meaning of the decision is uncertain in that he claims not to know which complaint was dismissed in Judgment 4370. He submits that the Judgment shows that at least two complaints were filed with the Tribunal: first, the complaint filed by him on 31 January 2018 to challenge the decision to retire him on 31 July 2017 even though he had not completed the five years of contributions required for payment of a retirement pension, and, second, a “virtual complaint” filed by an “as yet unidentified” complainant to impugn an “imaginary decision” of 20 November 2017 rejecting the internal appeal he had brought on 24 July 2017, which he states he never challenged before the Tribunal.

6. This argument is also irrelevant. The complaint dismissed by Judgment 4370 is plainly the complaint filed by the complainant on 31 January 2018 against the decision of 20 November 2017 rejecting his internal appeal against the decision to retire him as from 31 July 2017.

The Tribunal rightly considered that decision to be the final decision – within the meaning of Article VII, paragraph 1, of its Statute – which, in the present case, had been taken at the end of the internal appeal procedure and which the complainant impugned insofar as it confirmed the decision to retire him. On this point, the Tribunal further observes that while, in the complaint form filed by the complainant in connection with his first complaint, the complainant stated, as he points out, that the decision he intended to impugn was his “[m]andatory retirement [...] as from 31 July 2017”, he also stated that this decision bore the date of 20 November 2017.

7. It follows from the foregoing that, since the meaning of the decision in Judgment 4370 is not at all uncertain or ambiguous, it does not require interpretation by the Tribunal.

8. The complainant’s application for interpretation is therefore clearly irreceivable 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 interpretation is dismissed.

In witness of this judgment, adopted on 12 May 2022, Mr Patrick Frydman, Vice-President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 6 July 2022 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLÉMENT GASCON

DRAŽEN PETROVIĆ