

SIXTY-EIGHTH SESSION

***In re* MAUGIS (No. 5)**

(Application for review)

Judgment 998

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgments 945 and 980 filed by Mr. Michel Maugis on 20 July 1989, the reply of 22 August from the European Southern Observatory (ESO) and the complainant's letter of 6 September 1989 to the Registrar stating that he did not wish to rejoin;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article R II 4.35 of the ESO Staff Regulations;

Having examined the written evidence;

CONSIDERATIONS:

1. The complainant seeks review of Judgment 945, which the Tribunal delivered on 8 December 1988, and of Judgment 980, which it handed down on 27 June 1989.

His case is that the Tribunal has failed to take proper account of papers already filed and has therefore misconstrued the material rules.

2. Since the judgments carry the authority of *res judicata*, only in exceptional cases may they be reviewed. The admissible grounds for reviewing them do not include a mistake of law, misreading of the facts or failure to rule on a plea; they do include the disregard of some essential fact, a mistaken finding of fact, failure to rule on a claim, and discovery by the applicant of some new fact he was unable to rely on in his original case.

3. Judgment 980 dismissed the complainant's application for review of Judgment 945. Insofar as the grounds for this application, which include disregard of a memorandum dated 22 January 1982, are the same as those he relied on in his earlier application, the ruling in Judgment 980 holds good.

4. The complainant also cites a letter dated 23 August 1983 from the Dutch Government to the Head of Administration, and asks the Tribunal on the strength of that text to alter the construction Judgment 945 puts on Article R II 4.35 of the ESO Staff Regulations.

As was said in Judgment 980 under 3, asking the Tribunal to read that provision differently does not amount to admissible grounds for review.

Besides, the text the complainant relies on, which is merely a proposal by a member State to amend R II 4.35 to make it clearer, cannot afford any proper reason for altering an interpretation that has the authority of *res judicata*.**DECISION:**

For the above reasons,

The application is dismissed.

In witness of this judgment by Mr. Jacques Ducoux, President of the Tribunal, Tun Mohamed Suffian, Vice-President, and Mr. Héctor Gros Espiell, Deputy Judge, the aforementioned have signed hereunder, as have I, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 23 January 1990.

(Signed)

Jacques Ducoux
Mohamed Suffian
H. Gros Espiell
A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.