

A. (No. 74)

v.

EPO

(Application for review)

120th Session

Judgment No. 3478

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3429 filed by Mr P.A. on 24 February 2015 and corrected on 27 March 2015;

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 requests review of Judgment 3429, delivered on 11 February 2015, in which the Tribunal dismissed as unfounded his fifteenth complaint challenging the EPO's decision not to reimburse the remainder of his removal costs, with interest at the rate of 8 per cent per annum. Suffice it to recall that, with a view to obtaining the administration's approval prior to seeking reimbursement, the complainant had submitted an inventory and several estimates from different relocation companies for his removal costs. The EPO conducted its own enquiries as the submitted offers seemed to be well beyond the usual market price, and it eventually made a reimbursement offer based on a cheaper estimate. The complainant claimed that the

estimate chosen by the EPO had been prepared in collusion with the company in order to cause him harm, that the terms of the estimate chosen were not comparable to those of the more expensive estimates provided by him, and that the EPO had breached the applicable regulations.

2. It is well settled that the Tribunal's judgments are final and may only be reviewed in exceptional circumstances and on the grounds of failure to take account of particular facts, a mistaken finding of fact that involves no exercise of judgment, omission to rule on a claim or the discovery of some new facts which the complainant was unable to invoke in time in the earlier proceedings (see, for example, Judgment 3379, under 1). Additionally, the ground upon which the review is sought must be one that would have led to a different result in the earlier proceedings (see Judgment 3000, under 2).

3. In his grounds for review of Judgment 3429, the complainant states that the Tribunal has overlooked the evidence and the facts presented before it in the context of his fifteenth complaint.

4. The Tribunal finds that in the application for review, the complainant is merely requesting a reassessment of the evidence which the Tribunal considered and weighed in Judgment 3429. None of the elements put forward by the complainant in his request for review calls into question the Tribunal's findings that the EPO had a duty to verify the appropriateness of the estimates provided, that it was allowed to request additional estimates when necessary and to approve a ceiling amount, that there was no evidence that the estimate chosen by the EPO was prepared in collusion with the company in order to cause him harm, and that the documents showed that the terms of the chosen estimate were comparable to those of the more expensive estimates provided by the complainant.

5. The complainant does not argue that there are any new facts on which he was unable to rely through no fault of his own and which would have some effect on the Tribunal's ruling in Judgment 3429

(see Judgment 2693, under 2, and the case law cited therein). Rather, he seeks to reintroduce allegations already made in previous complaints filed by him before this Tribunal. The Tribunal recalls that it will not allow review of a judgment on the ground that it has omitted to rule on all the pleas submitted in the original proceedings. As it has often observed about such argument, omission to rule on an argument does not afford grounds for review, because then it would have to pass express judgments on all such pleas, even if they were plainly immaterial to the issue at hand (see, for example, Judgments 1294, under 3, and 748, under 4).

6. Additionally, the complainant alleges that the Tribunal was mistaken in its finding that the estimate provided by the EPO was comparable to those submitted by him. That plea amounts to no more than an expression of disagreement with the Tribunal's reading of the evidence, and again that affords no justification for review (see Judgment 1294, under 12).

7. In the foregoing premises, the matters raised by the complainant are *res judicata* and he puts forward no legitimate ground to reopen the findings made by the Tribunal in Judgment 3429. Accordingly, the application for review must be summarily dismissed in accordance with the procedure provided for in Article 7 of the Tribunal's Rules.

DECISION

For the above reasons,
The application for review is dismissed.

In witness of this judgment, adopted on 22 May 2015, Mr Giuseppe Barbagallo, President of the Tribunal, Ms Dolores M. Hansen, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 30 June 2015.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

HUGH A. RAWLINS

DRAŽEN PETROVIĆ