

Roger PINTO
Member
Geneva, 16 May 1986

R. Maria VICIEN-MILBURN
Executive Secretary

Judgement No. 365

(Original: French)

Case No. 339:
Gbikpi

Against: **The Secretary-General
of the United Nations**

Request for the correction and revision of Judgement No. 359.

Consideration of the receivability of the request.—Finding that no clerical or arithmetical errors or mistakes are alleged.—Allegations that errors of law were made by the Tribunal, even if established, would not give rise to the revision procedure under article 12 of the Tribunal's statute.—Finding that the Applicant does not invoke any new facts having a decisive effect on the judgement and which were unknown to the Tribunal and to the Applicant when the judgement was rendered.—Application held irreceivable.

Application rejected.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Herbert Reis, Vice-President, presiding; Mr. Luis de Posadas Montero; Mr. Roger Pinto;

Whereas, by a letter dated 18 November 1985, the Applicant filed, under article 12 of the Statute of the Tribunal, an application for the correction and revision of Judgement No. 359 rendered in his case on 8 November 1985;

Whereas the Respondent filed his answer on 13 February 1986;

Whereas the Applicant filed written observations on 26 March 1986;

Whereas on 8 April 1986, 23 April 1986 and 15 May 1986 the Applicant filed additional documents;

Whereas at the request of the Tribunal, the Respondent submitted additional information on 12 May 1986;

Whereas the facts in the case have been set forth in Judgement No. 359;

Whereas the Applicant requests the Tribunal, in accordance with the last sentence of article 12 of its Statute, to correct three errors and to rectify two omissions in Judgement No. 359 dated 8 November 1985;

Whereas the Respondent contends that:

1. The request for revision of Judgement No. 359 filed by the Applicant does not comply with the requirements laid down in the first sentence of article 12 of the Statute of the Tribunal. It does not put forward any new fact that was unknown to the Tribunal when the judgement was rendered.

2. With regard to the last sentence of article 12 of the Statute, in its Judgement No. 359 the Tribunal did not make any clerical or arithmetical mistakes or errors arising from any accidental slip or omission.

3. In its Judgement No. 216, the Tribunal acknowledged that its "powers of revision are strictly limited by its Statute and cannot be enlarged or abridged by the Tribunal in the exercise of its jurisdiction". In fact, what the Applicant requests is not that Judgement No. 359 be revised, but, rather, that it be reviewed. It should be noted, in this connection, that the Applicant submitted a request for review of the judgement to the Committee established under article 11, paragraph 4, of the Statute, and that the Committee rejected the request as unfounded.

The Tribunal, having deliberated from 28 April to 23 May 1986, now pronounces the following judgement:

I. It follows from the statement of the facts and from the proceedings that the Applicant is endeavouring, indirectly, to call into question the case already decided by the Tribunal.

II. In effect, on the one hand, the Applicant does not draw attention, in accordance with the provisions of article 12 of the Statute, to any clerical or arithmetical mistakes or errors arising from any accidental slip or omission that might have been made in Judgement No. 359. He alleges that errors of law were made by the Tribunal in deciding that certain pleas in his appeal were not receivable, since they were not filed within the required time-limit, and in refusing to rule on the issue of the Applicant's re-appointment.

Even if it were established that these errors of law were made, they would not give rise to the revision procedure set forth in article 12 of the Statute.

III. On the other hand, the Applicant requests the revision of the judgement without invoking any new fact of such a nature as to have a decisive impact on the judgement that was unknown to the Tribunal and to the Applicant when the judgement was rendered.

IV. The request is irreceivable on these two counts. All the Applicant's requests are therefore rejected.

(Signatures)

Herbert REIS
Vice-President, presiding

Luis de POSADAS MONTERO
Member

Geneva, 23 May 1986

Roger PINTO
Member

R. M. VICIEN-MILBURN
Executive Secretary
