

118th Session

Judgment No. 3383

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr S. R. against the European Organization for Nuclear Research (CERN) on 12 June 2012;

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 filed a complaint with the Tribunal on 12 June 2012. He named as the defendant, the European Organization for Nuclear Research (CERN). In the complaint form the complainant identified himself as a national of “South Korea”, his present status as unemployed and his former status as an official, as a research scientist. In that part of the form in which the impugned decision must be identified, the complainant said, in substance, CERN had failed to take a decision (for the purposes of Article VII, paragraph 3, of the Tribunal’s Statute) on a claim notified to CERN administration by the complainant on 22 March 2012. Thus the complainant was alleging that an implied decision had been made rejecting his claim.

2. It is difficult to discern what the impugned decision was either from the complaint form, the brief or the documents annexed to the brief. The only reference in the brief to any event on 22 March 2012 was a reference to an e-mail sent by the complainant to CERN's Ombudsman. The background to this correspondence appears to be as follows. The complainant had been working at CERN premises under some form of collaborative arrangement involving Korean scientists undertaking research. The Korean organisation engaged in this collaborative arrangement was known as KCMS. On 18 April 2011 a collaborative spokesman (who appears also to have been a scientist and academic from an Italian university) wrote to a representative of KCMS criticising the conduct of the complainant in fairly firm terms. The complainant's conduct which gave rise to criticism involved the presentation, by him, of what he believed to have been a significant scientific breakthrough or discovery. Without delving into detail, it appears that the letter of 18 April 2011 was written in reaction to this presentation and the circumstances surrounding it, and resulted in the complainant being withdrawn from the collaborative arrangement and ceasing to work at CERN premises.

3. The e-mail to CERN's Ombudsman did not involve any claim by the complainant concerning non-observance of the terms of his appointment as an official or non-observance of provisions of Staff Rules and Regulations. The e-mail was, in substance, a further piece of correspondence in what appears to have been a long-running attempt by the complainant to obtain some sort of relief or vindication in relation to the wrong he believed had been caused to him by the letter of 18 April 2011. The complainant does not demonstrate in his brief that a decision has been made affecting his rights in a way which would attract the jurisdiction of the Tribunal having regard to Article II, paragraph 5, of the Tribunal's Statute. Moreover it also appears that the complainant never has been an official of CERN. The Tribunal's jurisdiction is limited and defined by the Tribunal's Statute and is confined, by Article II, to complaints of officials, which includes former officials (see, for example, Judgments 2503, consideration 4, and 3049, consideration 4).

4. For these reasons the complaint is both clearly irreceivable and also devoid of merit. It should be dismissed summarily under Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,
The complaint is summarily dismissed.

In witness of this judgment, adopted on 9 May 2014, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 9 July 2014.

GIUSEPPE BARBAGALLO
MICHAEL F. MOORE
HUGH A. RAWLINS
DRAŽEN PETROVIĆ