

A. (Nos. 56 and 57)

v.

EPO

120th Session

Judgment No. 3554

THE ADMINISTRATIVE TRIBUNAL,

Considering the fifty-sixth and fifty-seventh complaints filed by Mr P.A. against the European Patent Organisation (EPO) on 21 and 22 November 2013, respectively;

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

Having examined the written submissions;

CONSIDERATIONS

1. The complainant is a former employee of the European Patent Office, the EPO's secretariat.

2. By a letter of 26 July 2010 the complainant asked the President of the Office to convene a medical committee to examine whether his invalidity was due to an occupational disease. He specifically requested that the Office's Medical Adviser should not be a member of that committee.

3. On 5 August 2010 the complainant again wrote to the President of the Office, asking him to review the decision to reject his claim for

reimbursement, under the EPO's health insurance scheme, of the cost of spa cures taken by his daughters.

4. Both matters were referred to the Internal Appeals Committee (IAC) and registered under the references RI/135/10 and RI/142/10.

5. By an e-mail of 5 November 2013 the complainant informed the Administration that unless he received the opinions of the IAC and the decisions of the President on each of these appeals within two weeks, he would file complaints with the Tribunal.

6. On 21 and 22 November 2013, respectively, he filed his fifty-sixth and fifty-seventh complaints with the Tribunal. He indicates on each complaint form that no express decision has been taken on the "claim" of which he notified the EPO on 5 November 2013 and that his complaints are therefore filed under Article VII, paragraph 3, of the Statute of the Tribunal.

7. Although the factual background to these complaints is not the same, they raise the same issue of law and it is convenient that they be joined to form the subject of a single judgment.

8. In Judgment 3302, delivered on 5 February 2014, the Tribunal dismissed the complainant's twenty-eighth to fifty-fifth complaints, amongst others, for failure to exhaust internal remedies. Referring to its case law, the Tribunal emphasised that a complainant cannot claim to have exhausted the internal means of redress simply because he or she has sent an ultimatum to the decision-making authority to no avail (see Judgment 3302, under 4). In spite of that ruling, the complainant has chosen to pursue his fifty-sixth and fifty-seventh complaints, in which he adopts precisely the same approach as in those earlier complaints.

9. Accordingly and for the reasons set forth in considerations 4 to 5 of Judgment 3302, his fifty-sixth and fifty-seventh complaints are

clearly irreceivable and must be summarily dismissed in accordance with the procedure set out in Article 7 of the Tribunal's Rules.

DECISION

For the above reasons,

The complaints are dismissed.

In witness of this judgment, adopted on 15 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