

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**A. (No. 75)**

**v.**

**EPO**

**121st Session**

**Judgment No. 3628**

THE ADMINISTRATIVE TRIBUNAL,

Considering the seventy-fifth complaint filed by Mr P. A. against the European Patent Organisation (EPO) on 13 April 2015;

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. On 30 June 2010 the EPO's Administrative Council adopted decision CA/D 7/10, modifying Article 83 of the Service Regulations for permanent employees of the European Patent Office. Prior to the entry into force of this decision, Article 83 relevantly provided that an employee's contribution to the Organisation's sickness insurance would not exceed 2.4 per cent of her or his basic salary. As a result of decision CA/D 7/10, this 2.4 per cent ceiling was eliminated, although Article 4 of the decision provided that the employees' contribution would be maintained at 2.4 per cent of basic salary for 2011, 2012 and 2013.

2. By a letter of 6 October 2010 addressed to both the President of the Office and the Administrative Council, the complainant lodged an internal appeal challenging decision CA/D 7/10 insofar as it removed the 2.4 per cent ceiling on employees' contributions to sickness insurance (now referred to as "healthcare insurance"). He contended, in particular, that the decision in question violated the acquired rights of serving staff members and breached the principle of proportionality, and he requested that it be quashed. He also claimed damages and costs, amongst other relief.

3. By a letter of 16 February 2015, the Vice-President of Directorate-General 4, acting by delegation of power from the President, informed the complainant that he had decided to reject his appeal as manifestly irreceivable, in accordance with the unanimous opinion of the Internal Appeals Committee, as it was directed against a general regulatory decision which had not been applied to the complainant individually in a manner prejudicial to him. That is the impugned decision.

4. According to firm precedent, a complainant cannot impugn a general decision that requires individual implementation unless and until it is applied in a manner prejudicial to her or him (see for example Judgments 1451, 1688, 2822, 3146 and 3291). The Administrative Council's decision CA/D 7/10 was a general decision which entered into force on 1 January 2011. Any change to the healthcare insurance contribution made pursuant to CA/D 7/10 would necessarily have been implemented through individual decisions modifying each staff member's contribution. At the time when the complainant filed his internal appeal, CA/D 7/10 had not been applied to him individually and had not affected him in any way. Having regard to the case law cited above, the Vice-President was right in rejecting the appeal as being manifestly irreceivable. It follows that the present complaint is devoid of merit and must be summarily dismissed in accordance with the procedure set out in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,  
The complaint is dismissed.

In witness of this judgment, adopted on 29 October 2015, Mr Claude Rouiller, President of the Tribunal, Mr Giuseppe Barbagallo, Vice-President, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 3 February 2016.

CLAUDE ROUILLER

GIUSEPPE BARBAGALLO

HUGH A. RAWLINS

DRAŽEN PETROVIĆ