

M. (T.) (No. 7)

v.

EPO

128th Session

Judgment No. 4205

THE ADMINISTRATIVE TRIBUNAL,

Considering the seventh complaint filed by Mr T. P. C. M. against the European Patent Organisation (EPO) on 16 November 2018;

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 official of the European Patent Office, the EPO's secretariat, who retired in 2010 for health reasons. In 2015 he signed a settlement agreement with the Office whereby, in exchange for the cancellation of disciplinary proceedings initiated against him prior to his separation from service, he agreed to withdraw two complaints against the EPO (his third and fourth) that were then pending before the Tribunal, as well as numerous internal appeals, in full and final settlement of all related claims. The withdrawal of the two complaints was recorded by the Tribunal at its 122nd Session.

2. By a letter of 17 August 2018 the complainant asked the EPO, amongst other things, to recognise that the withdrawal of his complaints and appeals in 2015 was "legally void", because it had been obtained by "undue pressure", and to restore his right to pursue those cases. On

14 September 2018 he submitted a request for management review in which he reiterated this request.

3. On 16 November 2018 the complainant received an email from the EPO informing him that his request for review was still in the process of being finalised and that he would be advised of the outcome in due course. The EPO pointed out that this communication did not constitute an implied rejection of his request for review.

4. Immediately after having received the EPO's email of 16 November 2018, the complainant filed his seventh complaint. He indicates in his brief that this complaint concerns only the issue of restoring his rights with respect to the two complaints withdrawn in 2015. He asks the Tribunal to reinstate his third and fourth complaints and to award him material and moral damages as well as costs.

5. The complainant acknowledges in his submissions that the claim relating to the withdrawal of his third and fourth complaints is still being examined internally, and he emphasises that he filed the seventh complaint in parallel "as a mere matter of precaution", to protect his rights.

6. It is evident from the file that, at the date when he filed this complaint, the complainant had not exhausted the internal remedies available to him under the Service Regulations for permanent employees of the European Patent Office. It follows that the complaint is clearly irreceivable under Article VII, paragraph 1, of the Statute of the Tribunal, and must be summarily dismissed in accordance with the procedure set out in Article 7 of the Tribunal's Rules.

7. In these circumstances, the oral proceedings requested by the complainant would serve no useful purpose and his application to that effect is rejected.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 10 May 2019, 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 3 July 2019.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ