

**M. (T.) (No. 9)**

**v.**

**EPO**

**129th Session**

**Judgment No. 4269**

THE ADMINISTRATIVE TRIBUNAL,

Considering the ninth complaint filed by Mr T. P. C. M. against the European Patent Organisation (EPO) on 17 September 2019;

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 permanent employee of the European Patent Office, the EPO's secretariat, who was subjected to a "house ban" in 2010. Since then, the complainant has requested on several occasions that the ban be lifted. In response to a request that he submitted in April 2018, the Principal Director of Human Resources informed him, in a letter of 24 May 2018, that although the house ban would not be lifted, he would be authorised to attend pensioners' meetings in the Office's premises on the following conditions: he had to notify the Office in writing 14 working days before the meeting; he would be accompanied to the meeting room and, at the end of the meeting, directly to the main exit; and he would not be allowed to stay longer or for any other purpose in the Office's premises. The complainant's request for management review of the decision of

24 May 2018 was rejected on 5 October 2018 and the matter was referred to the Appeals Committee.

2. In February 2019 the complainant received an invitation from the Association of EPO Pensioners to attend a meeting on 5 April 2019 in the Office's premises. By a letter of 6 March 2019 addressed to the Principal Director of Human Resources, he again requested that the house ban be lifted. In particular, he sought permission to attend the pensioners' meeting without having to be escorted to and from the meeting room. He added that he would be accompanied by his spouse on this occasion. The Principal Director replied, on 28 March 2019, that the complainant was authorised to attend the meeting on the conditions specified in her letter of 24 May 2018. In response to a further enquiry from the complainant, the Administration confirmed this position in an email of 4 April 2019.

3. On 17 May 2019 the complainant filed a request for management review of the decision of 28 March 2019, as confirmed on 4 April 2019. The Principal Director of Human Resources replied, in an email of 28 May 2019, that the complainant had already received a reply to his request, which was the subject of an ongoing procedure before the Appeals Committee. The complainant then filed a further request for management review, likewise concerning the house ban, on 29 May 2019.

4. By an email of 19 June 2019 the Conflict Resolution Unit informed the complainant that his requests for review of 17 and 29 May would not be registered, as the house ban and related conditions imposed by the Office were already the subject of an ongoing appeal. The author of this email suggested that if the complainant wanted the circumstances referred to in these requests for review to be considered in the context of his appeal, he should contact the Secretariat of the Appeals Committee.

5. On 19 August 2019 the complainant submitted his rejoinder to the Appeals Committee on his appeal concerning the house ban, detailing

the events mentioned above. On 17 September 2019 he filed the present complaint, by which he seeks to impugn the decision notified to him on 19 June 2019.

6. Article VII, paragraph 1, of the Statute of the Tribunal provides that “[a] complaint shall not be receivable unless the decision impugned is a final decision and the person concerned has exhausted such other means of redress as are open to her or him under the applicable Staff Regulations”. It is clear from the file that the email of 19 June 2019 from the Conflict Resolution Unit, which confirmed that the complainant’s challenge to the house ban imposed on him was being addressed through the internal appeal procedure, does not constitute a final decision for the purposes of Article VII, paragraph 1, of the Tribunal’s Statute.

7. As the complaint is not directed against a final decision, it is clearly irreceivable 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 13 November 2019, Mr Patrick Frydman, President of the Tribunal, Ms Fatoumata Diakité, Judge, and Mr Yves Kreins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 10 February 2020.

PATRICK FRYDMAN

FATOUMATA DIAKITÉ

YVES KREINS

DRAŽEN PETROVIĆ