

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

C. (No. 5)

v.

EPO

120th Session

Judgment No. 3557

THE ADMINISTRATIVE TRIBUNAL,

Considering the fifth complaint filed by Mr B. S. C. against the European Patent Organisation (EPO) on 28 January 2015;

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 is a former official of the European Patent Office, the EPO's secretariat. Prior to his retirement he participated, as a member nominated by the Staff Committee, in the work of the selection board for a post of administrator based in Munich. Sometime after the end of the work of the selection board, the complainant learned that the candidate who was ultimately appointed to the post in question was in fact performing his duties in The Hague, and not in Munich. The complainant considered that the selection procedure was flawed, as a revised vacancy announcement specifying that The Hague was a possible duty station ought to have been issued, and he therefore filed an internal appeal. In the course of the internal appeal proceedings, the EPO explained that the successful candidate had been transferred

to The Hague after the end of the selection process. The appeal was eventually rejected as unfounded, in accordance with the majority opinion of the Internal Appeals Committee. The author of that final decision also questioned the standing of the complainant to challenge the selection procedure.

2. In his complaint, the complainant first requests that the Tribunal order a re-run of the selection procedure in question with a modified vacancy notice and a modified composition of the selection board.

3. It is obvious that the complainant does not have standing to submit such a claim. He does not specifically allege any non-observance of his terms of appointment as required by Article II, paragraph 5, of the Tribunal's Statute. While in certain circumstances staff representatives may challenge the appointment of another official, in so doing they must allege a breach of their own individual rights, which might include, for example, the right to be consulted (see, for example, Judgments 2036, under 4, and 3449, under 4) or the right to compete for the post (see, for example, Judgment 2755, under 6). In the present case, the complainant does not clearly articulate any violation of his rights as a member of the selection board.

4. Furthermore, to the extent that the complainant appears to be seeking to defend the general interest of the staff in having that particular vacancy filled by a lawful procedure, not only does he not have standing to do so either individually or as a member of a group, he also has a conflict of interest. Indeed, given that he participated in the selection process, he could not have been – even theoretically – a candidate for that vacancy. His claim is therefore clearly irreceivable as he lacks *locus standi* to bring it.

5. A significant part of the complainant's submissions is devoted to challenging certain modifications to the EPO's internal appeal procedure which were introduced in 2013. In his claims for relief, he specifically asks the Tribunal to "clarify some points of the procedure of the Internal Appeals Committee". The complainant clearly

misunderstands the role of the Tribunal. A request for interpretation of a normative text of an organization cannot be formulated as an independent claim before the Tribunal, outside the context of alleged non-observance of the terms of appointment of an official. This claim is therefore clearly irreceivable.

6. In light of the above, this complaint is clearly irreceivable in its entirety 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 22 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