

**F., K., M. R. (No. 2), S.,
S. (No. 2), S. and S. (No. 2)**

v.

EPO

122nd Session

Judgment No. 3713

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaints filed by Ms U. F., Mr S.-E. K., Ms A. M. M. R. (her second), Mr P. S., Ms D. S. (her second), Mr G. S. and Ms E. S. (her second) against the European Patent Organisation (EPO) on 13 July 2015 and finally corrected on 14 December 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. The complainants challenge the Peer Reference Examiner Value – a value used by the EPO to plan and measure productivity – introduced for patent examiners working in their technical field. Their appeals, registered under the reference RI/57/13, were found to be manifestly irreceivable by the Appeals Committee. That opinion was followed by the Vice-President of DG4 who, acting by delegation of power from the President, rejected the appeals in several identical decisions that are now impugned before the Tribunal.

2. The complainants seek the same relief on the basis of the same submissions. The Tribunal therefore finds it convenient to join the complaints and to rule on them by a single judgment.

3. In their very short brief, the complainants argue that the introduction of the contested value had an immediate adverse effect on them in that it resulted in a constant increase in stress levels due to unrealistic productivity expectations. However, apart from the fact that this assertion is totally unsubstantiated, it is obvious that the setting of a performance objective is merely a step in the process of evaluating the performance of employees. It is firmly established by the Tribunal's case law that a measure of this kind can only be challenged in the context of an appeal against the final decision taken at the end of the process in question (see for example Judgment 2366, consideration 16, or Judgment 3198, consideration 13). In the present case, there is nothing to prevent the complainants from challenging, through the applicable internal procedures and ultimately before the Tribunal if need be, a staff report in which their productivity has been measured by reference to the contested value.

As the complaints challenge a measure which cannot be considered as a final decision within the meaning of Article VII, paragraph 1, of the Statute of the Tribunal, they are clearly irreceivable and must be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,

The complaints are dismissed.

In witness of this judgment, adopted on 11 May 2016, Mr Claude Rouiller, President of the Tribunal, Mr Giuseppe Barbagallo, Vice-

President, and Ms Dolores M. Hansen, Judge, sign below, as do I,
Dražen Petrović, Registrar.

Delivered in public in Geneva on 6 July 2016.

CLAUDE ROUILLER

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

DRAŽEN PETROVIĆ