

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

K. (No. 3)

v.

EPO

126th Session

Judgment No. 4055

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Mr E. K. K. against the European Patent Organisation (EPO) on 24 June 2017 and corrected on 23 November 2017;

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. In 2012 the complainant requested the payment of an education allowance for his daughter under Article 71(2) of the Service Regulations for permanent employees of the European Patent Office, the EPO's secretariat. His request was rejected and he filed an internal appeal (RI/217/12), which was rejected by the President of the Office on 15 June 2015 based on an opinion issued by the Appeals Committee.

2. In November 2016 the Tribunal delivered in public Judgment 3785 dealing with the composition of the Appeals Committee. Considering that this judgment created a new legal and factual framework for his own appeal, the complainant asked the EPO to resubmit his appeal RI/217/12 to a lawfully constituted Appeals

Committee. By decision dated 28 March 2017 the EPO rejected his request. This is the decision impugned in the present complaint.

3. The complaint is clearly irreceivable. As the President's final decision of 15 June 2015 was not impugned before the Tribunal within the time limit established by Article VII, paragraph 2, of the Statute of the Tribunal, its lawfulness became immune from challenge. In these circumstances, the EPO rightly rejected the complainant's request to reopen the case. It follows that the complaint 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 18 May 2018, 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 26 June 2018.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

HUGH A. RAWLINS

DRAŽEN PETROVIĆ