

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**C. (No. 15)**

**v.**

**EPO**

**135th Session**

**Judgment No. 4634**

THE ADMINISTRATIVE TRIBUNAL,

Considering the fifteenth complaint filed by Mr P. C. against the European Patent Organisation (EPO) on 18 March 2022 and corrected on 20 April;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions of the complainant;

**CONSIDERATIONS**

1. The complainant, who is represented by counsel, filed his complaint directly with the Tribunal, without lodging, as required by the applicable rules, an appeal with the EPO's Appeals Committee. The complainant argues that this step accords with the Tribunal's case law, citing Judgments 3714, consideration 11, and 3685, considerations 6 and 8. In short, the complainant argues that:

“it is highly unlikely that an appeal procedure before the Appeals Committee will be concluded and a new decision by the Administrative Council will be taken within a reasonable period of time. It is rather highly probable that the Complainant will not have a final internal decision for another 1-2 years, which, added to the more than 3 years of the prior appeal, will impede the Complainant from submitting his case to the Tribunal some 7 years after the Original Decision was communicated to him in July 2017. By all means, such duration is unacceptable and should be avoided.”

2. It is firmly established in the Tribunal's case law that, in order to comply with Article VII, paragraph 1, of the Statute of the Tribunal, which provides that a complaint is not 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, the complainant must follow the available internal appeal procedures (see, for example, Judgments 3296, consideration 10, and 3749, consideration 2). The case law further states that a staff member of an international organisation cannot of her or his own initiative evade the requirement that internal remedies must be exhausted prior to filing a complaint with the Tribunal (see Judgments 4056, consideration 4, 3458, consideration 7, 3190, consideration 9, and 2811, considerations 10 and 11, and the case law cited therein).

3. The arguments presented by the complainant do not justify a departure from those requirements. Accordingly, 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 11 November 2022, Mr Michael F. Moore, President of the Tribunal, Mr Patrick Frydman, Vice-President of the Tribunal, and Ms Hongyu Shen, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 1 February 2023 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE

PATRICK FRYDMAN

HONGYU SHEN

DRAŽEN PETROVIĆ