

116th Session

Judgment No. 3301

THE ADMINISTRATIVE TRIBUNAL,

Considering the twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth complaints filed by Mr P. A. against the European Patent Organisation (EPO) on 1 February 2012;

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

Having examined the written submissions and disallowed the complainant's application for oral proceedings;

CONSIDERATIONS

1. The complainant joined the European Patent Office, the EPO's secretariat, on 7 January 1980. He retired from active service on grounds of invalidity on 1 December 2005 and was reintegrated with effect from 1 October 2011.

2. In each of the five complaints filed with the Tribunal on 1 February 2012 the complainant requested, as can be inferred from the relief claimed in the complaint forms and in the various letters sent to the President of the Office under the heading "Internal Appeal", documents and information related to facts which occurred prior to his retirement on invalidity. These facts were considered by the Tribunal in previous judgments (particularly Judgments 2580, 2795 and 3058) regarding prior complaints filed by the complainant against the EPO.

3. As the complaints are nearly identical, varying only by the relief sought, the Tribunal finds it convenient to join them.

4. The Service Regulations for Permanent Employees of the European Patent Office allow for appeals to the Internal Appeals Committee. The complainant did not submit an official appeal to that body regarding the President's alleged implied decisions to reject his requests for information and documents. The Tribunal notes that these cases do not fall under the provision of Article 107, paragraph 2, of the Service Regulations which provides that "the internal means of appeal shall be deemed exhausted within the meaning of Article 109, paragraph 3", with regard to, inter alia, decisions taken after consultation of the Medical Committee, because the alleged implied decision to reject the request for documents and information cannot be considered to have been taken after consultation of the Medical Committee. The complainant has not shown that he has completed the appeal process and that he has received explicit or implied final decisions to reject his appeal. As such, the complaints are clearly irreceivable and must therefore be dismissed in accordance with the summary procedure provided for in Article 7, paragraph 2, of the Rules of the Tribunal.

5. The Tribunal considers that the five complaints constitute an abuse of process for three reasons. The first being that the five complaints were essentially identical, the second being that they were clearly irreceivable and the third being that they contained unacceptable, offensive and unjustified expressions against the Organisation as a whole. This would justify the award of costs to the Organisation. However, in the circumstances, considering that the case is dealt with in accordance with the summary procedure, the Tribunal will not award costs.

DECISION

For the above reasons,
The complaints are dismissed.

In witness of this judgment, adopted on 13 November 2013, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Seydou Ba, Judge, and Mr Patrick Frydman, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 5 February 2014.

Giuseppe Barbagallo
Seydou Ba
Patrick Frydman
Catherine Comtet