

119th Session

Judgment No. 3460

THE ADMINISTRATIVE TRIBUNAL,

Considering the seventeenth complaint filed by Mr G. C. A. K. against the European Patent Organisation (EPO) on 2 April 2013;

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. Facts relevant to this case are to be found in Judgment 2367, concerning the complainant's thirteenth complaint, and in Judgment 2703 concerning his fifteenth complaint. Suffice it to recall that the complainant is a former employee of the European Patent Office – the secretariat of the EPO –, whose pension file was administered by the EPO Pensions Department. He was informed by a letter of 12 October 2012 that, subject to the approval of the organs of the Organisation, the administration of his pension file would be entrusted, as of 1 January 2013, to the International Service for Remunerations and Pensions (ISRP), which appeared to be a division of the Organisation for Economic Co-operation and Development (OECD). He wrote to the President of the Office on 24 December 2012 contesting that decision. The matter was referred to the Internal Appeals Committee (IAC) and the complainant was informed by a letter of 22 February 2013 that his appeal would be dealt as quickly as possible and that he would be informed of any development.

2. In the meantime, on 13 January 2013, the complainant received a letter bearing the date “December 2012” and notifying him

that the administration of all pension files had been transferred to the ISRP as of 1 January 2013. The complainant contested that decision in a letter of 16 January 2013 to the President of the Office. By a letter of 31 January 2013 the Chairman of the IAC informed the complainant that the IAC had received a copy of his letter of appeal. He noted that he had filed his appeal subsequently to the reform concerning the appeal proceedings and informed him that, under the new Articles 108(1)(b) and 109(1) of the Service Regulations for Permanent Employees, he had to file a request for review prior to lodging the internal appeal with the IAC. He added that, considering that he had earlier indicated that he wished to avoid a protracted appeal process, it was presumed that he would also prefer to go through the review procedure first. Consequently, his letter of appeal would be forwarded to the Conflict Resolution Unit.

3. By a letter of 21 March 2013 the Director of the Human Resources Operations notified the complainant that she had decided to reject his request for review and that the letter constituted a decision on the outcome of the review within the meaning of Article 109(4) of the Service Regulations. Consequently, he could file an internal appeal with the IAC if he considered himself to be adversely affected by that decision.

4. On 2 April 2013 the complainant filed a complaint with the Tribunal challenging the President's failure to reply to his letter of 16 January 2013, by which he had initiated an appeal and for which he had not yet received a final decision. In his view, the letter of 21 March 2013 does not constitute a decision from the competent authority within the meaning of Articles 108 and 109 of the Service Regulations. He contends that, contrary to the Director's statement in that letter, he was not compelled to submit a request for review with respect to the contested decision of December 2012 because it was taken prior to 1 January 2013. Indeed, Article 17 of the decision of the Administrative Council (CA/D 8/12) of 26 October 2012, which amended in particular Articles 106 to 113 of the Service Regulations, provides that "[w]ith respect to decisions taken by the competent appointing authority prior to 1 January 2013 which are challenged after

that date, employees, former employees, [...] may opt not to submit a prior request for review”.

5. The complainant asks the Tribunal *inter alia* to order that his “pension entitlements”, which were transferred to the ISRP without his consent, “be returned to the unique Administrative Authority legally provided and active since 1998”.

6. Since the complaint is clearly devoid of merit, there is no need for the Tribunal to address the issue of receivability. The Tribunal is of the opinion that the Organisation properly exercised its discretion in taking the decision to transfer the administration of all pension files to the ISRP. Such a decision falls within the scope of the regular administration of the Organisation and the Tribunal finds no flaw in the decision-making process, nor in the implementation of the decision. Furthermore the Tribunal finds that the decision cannot be considered unreasonable or outside the range of acceptability as it is uncontested that the ISRP had already been dealing with over a quarter of all EPO pension files as well as the pension files of several other international organizations.

The Tribunal also finds that the complainant’s requests are unjustified as all questions concerning the pension scheme remain under the responsibility of the Organisation, and the adopted outsourcing is merely a tool to increase the efficiency of the administration of the pension files.

7. Considering the above, the complaint must be dismissed in accordance with the summary procedure provided for in Article 7 of the Tribunal’s Rules.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 14 November 2014, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 11 February 2015.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ