

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

P. (No. 8)

v.

EPO

120th Session

Judgment No. 3559

THE ADMINISTRATIVE TRIBUNAL,

Considering the eighth complaint filed by Mr R. P. against the European Patent Organisation (EPO) on 27 November 2014;

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 complainant, in his capacity as a member of the General Advisory Committee (GAC), lodged an internal appeal concerning the composition of the GAC in 2012. The matter was referred to the Internal Appeals Committee, which issued its opinion in June 2014. By a letter of 28 August 2014, the complainant was informed that the President of the Office had decided to reject his appeal as irreceivable in part and unfounded in its entirety.

2. The complainant indicates on his complaint form that he impugns the decision of 28 August 2014 and that he was notified of that decision that same day. He filed his complaint with the Tribunal on 27 November 2014.

3. Article VII, paragraph 2, of the Tribunal's Statute provides that "[t]o be receivable, a complaint must [...] have been filed within ninety days after the complainant was notified of the decision impugned". It is not within the competence of the Tribunal to extend this period of time set forth by the Statute. As the Tribunal has repeatedly stated, this time limit is an objective matter of fact and the Tribunal will not entertain a complaint filed after it has expired. Any other conclusion, even if founded on considerations of equity would impair the necessary stability of the parties' legal relations, which is the very justification for the time bar. The ninety-day period begins to run on the day following the date of notification of the impugned decision. Where the ninetieth day falls on a public holiday, the period is extended until the next business day (see Judgments 2250, under 8, 3393, under 1, and 3467, under 2).

4. In this case, the ninety-day period provided for in Article VII ended on 26 November 2014, which was not a public holiday. Accordingly, the complaint filed on 27 November 2014 is time-barred and clearly irreceivable and must therefore be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal (see Judgments 2901, under 11, 2266, under 2 and 3, and 59, under 3).

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 15 May 2015, 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 30 June 2015.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ