

L. N. (No. 2)

v.

EPO

123rd Session

Judgment No. 3802

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Mrs M. L. N. against the European Patent Organisation (EPO) on 20 October 2015;

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 filed a complaint impugning the final decision of the EPO Administrative Council rejecting her request for review of the Administrative Council's decision CA/D 10/14. In the complaint form the complainant indicated that she had received this decision on 15 July 2015.

2. 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".

3. As the postmark on her submission was not clear, the Registrar requested the complainant to provide proof of the date of dispatch. The complainant was not able to provide such proof. Article 4, paragraph 2,

of the Rules of the Tribunal relevantly provides that “in the event of doubt about the date of dispatch [the Tribunal] shall take into account the date of receipt at the Registry” for the purpose of determining whether the time limits in paragraphs 2 and 3 of Article VII of the Statute have been complied with. As the complaint was received on 20 October 2015 with no indication of the date of dispatch, it was filed 97 days following the notification of the decision impugned.

4. Accordingly, the complaint 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.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 2 November 2016, Mr Claude Rouiller, President of the Tribunal, Mr Giuseppe Barbagallo, Vice-President, and Ms Dolores M. Hansen, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 8 February 2017.

CLAUDE ROUILLER

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

DRAŽEN PETROVIĆ