

EIGHTY-SECOND SESSION

In re Rombach-Le Guludec

Judgment 1581

The Administrative Tribunal,

Considering the complaint filed by Mrs. Valérie Jeanne Cécile Rombach-Le Guludec on 28 October 1996 against the European Patent Organisation (EPO);

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7, paragraph 2, of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant is a staff member of the European Patent Office, the secretariat of the EPO, at The Hague. On 4 December 1995 she took part in a demonstration at the Organisation's headquarters in Munich to protest against meetings of the heads of delegation of its Administrative Council. She alleges that during the demonstration she was assaulted by the then President of the Office and sustained injury and consequential pain and distress.

2. On 11 March 1996 the complainant learned from a communiqué from the new President to the staff that in response to a letter from the German authorities the Administrative Council had decided not to waive the immunity of the former President in regard to that incident.

3. By a letter dated 7 June 1996 to the chairman of the Administrative Council the complainant lodged an internal appeal against the decision not to waive the former President's immunity.

4. By a letter dated 29 July 1996 the chairman informed her that she was not free to appeal against decisions of the Council. He added, however, that she was obviously quite aware that the Service Regulations provided other means of redress and so did not leave her without legal protection. That is the decision which she is impugning.

5. She is asking the Tribunal -

(a) to rescind the Administrative Council's decision not to waive the former President's immunity and "to regard it as not having been taken";

(b) to order the Council to waive the former President's immunity;

(c) to order the EPO to inform the German authorities that the former President's immunity is waived;

(d) to award her 20,000 guilders in damages for "the moral prejudice suffered as a result of the fact that the immunity was not immediately waived";

(e) subsidiarily, to order the Council to convene an Appeals Committee as provided for in Article 110 of the Service Regulations "without delay to deliver an opinion on the present matter"; and in any event

(f) to award costs.

6. In Judgment 1543 (*in re Popineau* No. 12) the Tribunal declared that the decision whether or not to waive the President's immunity fell within the Council's discretion and that "such exercise of discretion is a matter outside the Tribunal's competence, affecting as it does relations between the defendant Organisation and a member State".

7. The reasoning in 1543 holds good for the instant case. Since the complaint is therefore clearly irreceivable it must be summarily dismissed in accordance with Article 7(2) of the Tribunal's Rules.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Mr. Michel Gentot, Vice-President, and Mr. Edilbert Razafindralambo, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

William Douglas
Michel Gentot
E. Razafindralambo
A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.